

**TOWN OF DAVIE
REGULAR MEETING
FEBRUARY 7, 2007**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Crowley, Councilmembers Caletka, Paul and Starkey. Also present were Town Administrator Shimun, Town Attorney Jim Cherof, and Town Clerk Muniz recording the meeting.

3. OPEN PUBLIC MEETING

Rosie Anderson, 4950 SW 111 Terrace, announced that the Old Davie School and the Davie Historical Society were hosting a Pioneer Dinner on February 10th honoring the Franklin, Taylor and Middlebrook families and invited everyone to attend.

Ms. Anderson stated the Davie Historical Society was restoring the Walsh/Osterhaut House and asked for volunteers.

Phil Busey, 837 SW 120 Way, announced his candidacy for the District 3 seat and reminded everyone to vote on March 13th.

Adam Konick, Davie Firefighter, said he spoke for many of his coworkers and asked Mr. Shimun to work toward a contract. Mr. Konick noted that since their contract had expired, the Fire Department had responded to over 16,000 calls and continued to represent the Town.

Vincent Muller, President of the Davie Firefighters Union, reported that their membership was unhappy about the lack of a contract and asked the Town to get serious about the negotiations.

Robert Belizaire stated that the living conditions at Station 68 were bad and had existed for too long. He feared that their experienced firefighters would leave for other departments because of the lack of a contract.

Councilmember Starkey asked Mr. Shimun why the workshop regarding Station 68 had been canceled. Mr. Shimun said the workshop had been rescheduled, not canceled and noted that the current issues at Station 68 were being addressed. The building was being rehabilitated which should be completed in 90 days. Mr. Shimun added that there was one item still being negotiated in the firefighters' contract.

Dan Frost thanked Mr. Shimun for his help resolving the Station 68 issue. Mr. Frost discussed the proposed Town development and attendant 60% population increase, and warned Council about the impact this would have on the water supply.

Dan Pignato, 6920 SW 56 Court, reported that 176 kids had participated in the Challenge Air event plane rides. Unfortunately, 260 kids had signed up, so a two-day event was planned for next year.

Mary Woods discussed the Davie shuttle bus service and said service had improved, but was still not good enough. She indicated that the bus service employees treated the handicapped riders badly and informed them they could not ride. She was angry at the treatment she had received. Mayor Truex said that Police Chief John George and Mr. Shimun were aware of the issues to which Ms. Woods referred, and assured her she was allowed to ride the bus.

Sylvia Clements advised that she was experiencing problem obtaining public records regarding former Town Attorney Kiar. She said that Town employees had told her to go to Mr. Kiar's office for the records, and that she must leave a \$500 deposit for confidential files to be segregated, which was later reduced to \$100. Ms. Clements asked Mayor Truex why he wanted to keep Mr. Kiar on the payroll for six months at a cost of \$21,000 to \$23,000 per month.

Marlon Luis, 13251 SW 16 Court, announced his candidacy for the District 4 seat and encouraged everyone to vote in March.

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Mayor Truex advised that staff had requested that item 6.7 be tabled.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table item 6.7 to February 21, 2007. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex said the applicants for items 4.10 and 6.8 had requested those items be tabled.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table items 4.10 and 6.8 to February 21, 2007. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that the applicant had requested item 6.1 be tabled to March 7, 2007.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to table item 6.1 to March 7, 2007. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Starkey requested item 4.1 be tabled to the next meeting. Mayor Truex requested all Council comments on redistricting be transcribed verbatim.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table item 4.1 to the next meeting, and to request the verbatim transcription. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1 November 1, 2006 (Regular Meeting) (tabled from January 17, 2007)
- 4.2 November 1, 2006 (Special Executive Session - Part I)
- 4.3 November 1, 2006 (Special Executive Session) (Part II)
- 4.4 November 9, 2006 (Workshop Meeting)

Proclamation

- 4.5 Bob Amchir Day (February 13, 2007)

Resolutions

- 4.6 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT TO MODIFY BULK WATER AND SEWAGE USER AGREEMENT BETWEEN THE TOWN OF DAVIE AND FERNCREST UTILITIES TO PROVIDE BULK WATER AND SEWAGE SERVICE; AND PROVIDING AN EFFECTIVE DATE. (tabled from January 17, 2007)
- 4.7 **STREET NAME** - A RESOLUTION OF THE TOWN OF DAVIE TO CHANGE THE STREET KNOWN AS NORTHWEST SEVENTY-FIFTH TERRACE, IN DAVIE, FLORIDA TO READ BOB AMCHIR WAY NORTHWEST SEVENTY-FIFTH TERRACE
R-2007-28
- 4.8 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN MYSTIQUE ESTATES HOA AND THE TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL AND AUTHORITY TO ENTER PREMISES.
R-2007-29

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- 4.9
R-2007-30 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH CALVIN, GIORDANO & ASSOCIATES, INC. TO PROVIDE ENGINEERING SERVICES FOR THE WASTEWATER TREATMENT PLANT 4 MGD EXPANSION PROJECT. (\$549,028)
- 4.10 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO AMEND THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF DAVIE AND EDSA FOR THE REGIONAL ACTIVITY CENTER (RAC) MASTER PLAN; PROVIDING FOR AN AMENDED SCOPE OF SERVICE TO COMPLETE SAID MASTER PLAN; PROVIDING FOR A FEE SCHEDULE AND PROJECT PHASING; AND TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (\$77,750)
- 4.11
R-2007-31 **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A LEASE AMENDMENT TO AN EXISTING LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 6911 ORANGE DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE. (Town to receive 50% of co-location revenue)
- 4.12
R-2007-32 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING AN EXTENSION OF THE CONTRACT BETWEEN THE TOWN OF DAVIE AND MICRO SYSTEMS CONSULTANTS INC FOR PROGRAMMING SERVICES. (\$15,000)
- 4.13
R-2007-33 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH MILLER LEGG, FOR COST RECOVERY CONSULTANT SERVICES.
- 4.14
R-2007-34 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH LAND DESIGN INNOVATIONS INCORPORATED, FOR COST RECOVERY CONSULTANT SERVICES.
- 4.15
R-2007-35 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CALVIN GIORDANO & ASSOCIATES, INC FOR COST RECOVERY CONSULTANT SERVICES.
- 4.16
R-2007-36 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH LEIGH ROBINSON KERR & ASSOCIATES, INC. FOR COST RECOVERY CONSULTANT SERVICES.

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- 4.17
R-2007-37 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE AWARD OF THE BID FOR POTABLE WATER AND WASTEWATER POLYMERS TO FORT BEND SERVICES (DEWATERING POLYMER), TROPICHEM ENTERPRISES (STARCH) AND ATLANTIC COAST POLYMERS, INC. (POTABLE WATER POLYMER) (\$68,832)**
- 4.18
R-2007-38 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AWARDED THE BID TO ENTERPRISE LEASING COMPANY FOR THE SUPPLY OF LEASED VEHICLES FOR THE TOWN OF DAVIE POLICE DEPARTMENT'S FLEX LEASE RENTAL PROGRAM.**
- 4.19
R-2007-39 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS, NOT TO EXCEED \$13,000.00, FOR THE PURCHASE OF TWO NEW K-9 DOGS FOR THE DAVIE POLICE DEPARTMENT K-9 UNIT. (K.A. Mathias Company d/b/a Orchard Knoll Kennels, Inc.) (not budgeted - not to exceed \$13,000)**
- 4.20
R-2007-40 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FOR PRINTING AND MAILING THE DAVIE UPDATE. (\$30,000; Miami Offset for printing and Gilmore Associates, Inc. for mailing)**
- 4.21
R-2007-41 **GRANT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING APPLICATION, APPROVAL AND EXECUTION FOR A GRANT UNDER THE STATE OF FLORIDA DEPARTMENT OF EDUCATION SUMMER FOOD SERVICE PROGRAM FOR CHILDREN. (\$15,000)**
- 4.22
R-2007-42 **GRANT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPLICATION FOR A GRANT FROM THE EMERGENCY MANAGEMENT, PREPAREDNESS AND ASSISTANCE TRUST FUND FOR A FIXED GENERATOR; AND AUTHORIZING ACCEPTANCE AND EXECUTION OF THE GRANT IF AWARDED (NO MATCHING FUNDS).**
- 4.23
R-2007-43 **GRANT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPLICATION FOR A \$50,000 GRANT FROM THE EMERGENCY MANAGEMENT, PREPAREDNESS AND ASSISTANCE TRUST FUND FOR AN 8" TRAILER MOUNTED SEWAGE PUMP; AND AUTHORIZING ACCEPTANCE AND EXECUTION OF THE GRANT IF AWARDED (WITH \$50,000 MATCHING FUNDS).**
- 4.24
R-2007-44 **AIRPORT NOISE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE AIRPORT TRANSPORTATION ADVISORY BOARD'S MOTION TO NOTIFY IN WRITING AIRLINES WHOSE AIRCRAFT IMPACT DAVIE NEIGHBORHOODS IN A DETRIMENTAL MANNER DUE TO LOUD NOISE AND TO RELEASE SAID INFORMATION TO THE MEDIA, AND PROVIDING FOR AN EFFECTIVE DATE**

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- 4.25
R-2007-45 **DELEGATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE PLAT KNOWN AS THE "DAVIE TROPICANA REPLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 7-1-06, Three Oaks Business Center, 5951 Orange Drive)
- 4.26
R-2007-46 **VACATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, TO VACATE A 15' DRAINAGE EASEMENT FROM THE "DAVIE TROPICANA" PLAT; TO VACATE A 20' DRAINAGE EASEMENT FROM THE "DAVIE TROPICANA REPLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 7-2-06, Three Oaks Business Center, 5951 Orange Drive)
- 4.27
R-2007-47 **VACATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, VACATING A 60' INGRESS/EGRESS EASEMENT FROM THE "DAVIE TROPICANA REPLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 7-3-06, Three Oaks Business Center, 5951 Orange Drive)
- 4.28
R-2007-48 **VACATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING TO VACATE THE NON-VEHICULAR ACCESS LINE ON THE "DAVIE TROPICANA REPLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 7-4-06, Three Oaks Business Center, 5951 Orange Drive)
- 4.29
R-2007-49 **VACATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING TO VACATE 10' UTILITY EASEMENT ON THE "DAVIE TROPICANA REPLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 7-5-06, Three Oaks Business Center, 5951 Orange Drive)
- 4.30
R-2007-50 **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT KNOWN AS THE "COLONNADE AT UNIVERSITY" AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 5-3-05, Colonnade at University, 4640 University Drive) *Planning and Zoning Board recommended approval*
- 4.31
R-2007-51 **FARM PARK** - A RESOLUTION OF THE TOWN OF DAVIE FLORIDA, ACCEPTING A MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE DEVELOPMENT AND OPERATION OF THE DAVIE FARM PARK BY PROJECT STABLE AND PROVIDING FOR AN EFFECTIVE DATE
- 4.32
R-2007-52 **FARM PARK** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING A MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE DEVELOPMENT AND OPERATION OF THE DAVIE FARM PARK BY BROWARD COUNTY FARM BUREAU AND PROVIDING FOR AN EFFECTIVE DATE

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Quasi-Judicial Consent Agenda

- 4.33 SP 5-2-05, Three Oak Business Center, 5951 Orange Drive (B-2) *Site Plan Committee recommended approval subject to the staff report and all staff's recommendations plus the following: 1) that there be pavers on all sidewalks and crossings which connect the outer sidewalks and across the vehicular access points to be included; 2) that the existing trees would be removed one time only and all proper protection would be provided to them during construction; 3) on the north side of the building, add additional doors with landings onto the pavement; 4) that on the photometrics, increase lighting on the front of the building to an average of 3.0 candle-foot; 5) build-out vertical architectural details on the front of the building to a minimum of four inches and correct plan A-2 accordingly; 6) the top of the mansard roof must be a minimum of five-feet above the deck on all elevations in order to screen the air conditioning units; 7) on page A-3, correct the height of the top of beam on the east and west elevations; and 8) tone down the roof color and present choice for staff's approval*
- 4.34 SP 9-4-06, Regency Commons, 5351 South University Drive (B-3) *Site Plan Committee recommended approval subject to the staff report and all staff's recommendations and the following: 1) to reduce the number of compact parking spaces from 54 to 42 on SP-1; 2) change the two rows of parking on the east and south sides of building C to full size, ten-foot parking spaces; 3) relocate the compact parking spaces to abut the north and/or south property lines; 4) recalculate the parking calculations for medical use utilizing one space for 200 square-feet as opposed to one space for every 210 square-feet as shown; 5) relocate both dumpster enclosures by building C to the north property line and adjust the parking accordingly; 6) straighten out dumpster enclosure to the west of building E to a 90-degree angle; 7) the top of the parapet must be a minimum of five-feet above the roof deck on all of the buildings; and 8) add two dumpster enclosures, one at building A and one at building B and provide plans to staff for their approval.*

Councilmember Starkey pulled items 4.12 and 4.24 from the Consent Agenda. Councilmember Paul pulled items 4.5 and 4.7, to be discussed together, and item 4.6. Mayor Truex pulled items 4.31 and 4.32.

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to approve the consent agenda minus items 4.5, 4.6, 4.7, 4.12, 4.24, 4.31 and 4.32. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.5 Councilmember Paul introduced Donna and David Amchir and read the proclamation. Councilmember Paul announced that NW 75 Terrace would be rededicated to Mr. Amchir.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve item 4.5. In a voice vote, all voted in favor. (Motion carried 5-0)

4.7 Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve item 4.7. In a voice vote, all voted in favor. (Motion carried 5-0)

Mr. Amchir promised the Toy Run would continue.

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4.6 Councilmember Paul wanted to include the provision that Ferncrest would assume all expenses incurred as a result of the agreement, and that the residents' rates be lowered to match those paid by other residents.

Sam Poole, representing Ferncrest, said the bulk agreement provided a purchase price \$0.25 per 1,000 gallons less than the rate charged other customers. This should cover the cost of any needed additional staff.

Mr. Shimun confirmed that the staff portion of the agreement had been eliminated during negotiations. Mr. Poole said the agreement specified that the rate would be adjusted to remain \$0.25 less than other rates if those changed. He explained that this contract would result in a \$6,000 per year loss to Ferncrest. This was agreed to because the Town was considering acquiring Ferncrest, and these negotiations should be settled within 30 months. At the end of that period, if Ferncrest remained a separate entity, it would be responsible to add equipment required to meet higher water quality standards, and would seek a substantial rate increase to cover these costs. This agreement was meant to accommodate that 30-month negotiation period.

Councilmember Starkey felt there might be other legal issues. She thought Ferncrest had failed to meet water quality standards. Mr. Poole said Ferncrest must initiate installation of the new equipment needed to meet new water quality standards within six to nine months if they were to remain the independent utility. Councilmember Starkey wanted Mr. Cherof to review this before she approved it.

Vice-Mayor Crowley had no problem with approving this item as it was. He felt the most important issue was improved water quality.

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to approve.

Mayor Truex suggested tabling the item to the next meeting. Vice-Mayor Crowley withdrew his motion.

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to table to the next meeting [February 21, 2007]. In a voice vote, all voted in favor. (Motion carried 5-0)

4.12 Councilmember Starkey wanted this item to go out for a bid. Councilmember Caletka said he had compared rates and this amount seemed below market.

Councilmember Caletka made a motion, seconded by Vice-Mayor Crowley, to approve. In a voice vote, with Councilmember Starkey dissenting, all voted in favor. (Motion carried 4-1)

4.24 Councilmember Starkey thanked the Airport/Transportation Advisory Board for the recommendation.

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to approve. Vice-Mayor Crowley suggested the language regarding the high-noise air carriers should be more specific. Councilmember Starkey explained the statistics and stated that whether one judged using the days' average or per single event, the same carriers tended to be responsible for excessive noise at certain times. In a voice vote, all voted in favor. (Motion carried 5-0)

4.31 Councilmember Paul said this was a commitment from Project Stable and the Farm Park that was already included in the grant application and their letters of support to the Florida Communities Trust. This reaffirmed their commitment.

Councilmember Paul made a motion, seconded by Councilmember Caletka to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

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6. PUBLIC HEARING

Ordinance - Second and Final Reading

- 6.1 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-2-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM MH-10, MOBILE HOME DISTRICT TO RM-10, MEDIUM DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-2-04, Colonnade Construction Group/Ponderosa Development, Inc., 4701 and 4631 SW 73 Avenue) (tabled from December 20, 2006) *Planning and Zoning Board recommended denial {Approved on First Reading on January 17, 2007. The vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - no; Councilmember Paul - no; Councilmember Starkey - yes}*

This item was tabled earlier in the meeting.

Ordinance - First Reading (Second and Final Reading to be held at a later date)

- 6.2 **LAND USE** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL THE APPLICATION LA 05-02, CHANGING THE FUTURE LAND USE DESIGNATION OF CERTAIN LANDS FROM: "RESIDENTIAL ONE DWELLING UNIT PER ACRE", TO "COMMERCIAL"; AND AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY ADDING POLICY GROUP 28 RELATING TO DEVELOPMENT WITH DIRECT ACCESS OFF A LIMITED HIGHWAY"; PROVIDING FOR INCLUSION, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. (LA 05-02, Laystrom/Carroll - The Commons, SW 26 Street and Shotgun Road) (tabled from December 6, 2006) *the Local Planning Agency's original motion was to approve which resulted in a tie vote automatically tabling the item; however, the Local Planning Agency reconsidered the motion and ultimately denied the request to allow the item to move forward to Council*

Later in the meeting, Mr. Cherof read the ordinance by title. Mayor Truex announced that a public hearing on the item would be heard at a later date.

Bill Laystrom, representing The Davie Commons Holding Corporation, introduced Ken Bernstein and Jodie Siegel from Turnberry Associates. Mr. Laystrom said demographically, this project fit in perfectly with Aventura Mall and the Boca Town Center Mall, and was perfect for the target area. The project incorporated retail/office space and a 300-room hotel.

Mr. Laystrom described the process the project must go through for approval at the local, state and county level. He stated the commitments the applicant was willing to make this evening in writing: no access to Shotgun Road, agreement to fund certain staff-requested programs, and prohibition of certain uses. Mr. Laystrom noted that two citizen participation meetings were held in 2005, and they had also performed door-to-door and outreach in Town. He distributed a book of support forms, emails, letters and resolutions expressing support for the project.

Mr. Laystrom gave a PowerPoint presentation on the project and stated it was "completely different than what you've seen before" in a shopping venue. Considering the proximity to the airport and port, Mr. Laystrom felt it was also a prime location for corporate offices. Mr. Laystrom said they were working with FDOT to use the Arvida interchange for access.

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Mr. Laystrom explained there were five districts for different uses. He remarked that this would not be a phased project, it would be built and Certificates of Occupancy would be obtained all at once. Mr. Laystrom said they had agreed to follow the California Night Lighting ordinance. He promised that if they were unable to gain I-75 access, the project would not move forward. Mr. Laystrom described traffic entry and flow onto the site to the offices and the retail space, and stated that the number of trips from inside the Town of Davie to the site would be approximately 350 per day. He pointed out that if this were developed as single-family homes, the site would generate 1,500 trips per day. Mr. Laystrom stated that the Town had hired its own traffic consultants who confirmed the accuracy of Mr. Laystrom's traffic study.

Mr. Laystrom noted the difference in tax revenue between developing this property as residential or mixed-use property. He estimated The Commons would be worth \$400,000,000 when it opened. Property taxes and other fees would result in a total yearly revenue of \$3.7 million. The Commons would also pay to maintain its own roads, and cover the costs for law enforcement and fire service. The net revenue would be \$3.522 million. If the site were developed as single-family homes, the revenue would be approximately \$1.133 million per year. After costs, net revenue would be approximately \$866,000 per year. Mr. Laystrom claimed that approval of this project would allow the Town to pay for the maintenance costs of their parks, and cover the costs of hiring new Police officers and Fire personnel.

Mr. Laystrom listed the terms of the development agreement: no access to Shotgun Road; funding for fighting any third party's attempt to open any other access; maintenance of buffer, berm and site landscaping, and its replacement within 60 days of a storm event; use restrictions, such as no Wal-Mart, no Home Depot, no adult facilities, no standalone grocery; heights restricted to 60 feet; hours, lighting, and acoustic design limitations; link to eastern Davie for employment purposes; limits on deliveries and noise; 24-hour security; directional signage; limit on construction hours and access; construction/employment preference to Davie residents. Mr. Laystrom said the agreement would continue with the land, no matter who owned it.

Mayor Truex asked the other Council members if they would reconsider the Lorson Professional Campus from the previous meeting. He had spoken with the developer, and said he would agree to tabling the item for six months if the developer could get access to University.

Mayor Truex made a motion, seconded by Vice-Mayor Crowley, to reconsider items 3.9 and 3.26, the Lorson Professional Campus plat and site plan from the previous meeting. In a voice vote, all voted in favor. (Motion carried 5-0)

Vice-Mayor Crowley made a motion, seconded by Councilmember Starkey, to table those items for 60 days. In a voice vote, with Councilmember Paul out of the room, all voted in favor. (Motion carried 4-0)

Mayor Truex recessed the meeting at 9:35 p.m. and the meeting reconvened at 9:44 p.m.

Mayor Truex explained that the homeowner's association would be allowed one hour for their presentation, then the public would speak. The association and the applicant would then be allowed time for a summary.

A resident was opposed to the project because of the potential noise generated, which would disturb the adjacent residential neighborhood. She felt the construction of the wall would disturb wildlife. Considering the proximity of other large malls, she wondered if one more was needed or if the land could be put to better use, such as a park and/or animal rescue center.

Warren Niles, president of the Highland Ranches Homeowners Association, introduced Amy Huber, their attorney.

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Ms. Huber stated they were here to oppose the land use change. She referred to Florida court opinions regarding changes to comprehensive land use plans, noting that courts had “consistently held that your comprehensive plan is like a constitution for development and zoning within your town.” Ms. Huber stated that Section 12-304 contained the ten criteria for consideration of a change of use, and this project was in conflict with six of the ten criteria.

Ms. Huber stated the project was “contrary to the adopted comprehensive plan... or any element of portion thereof.” She cited policies written in the Town’s Evaluation and Appraisal Report [EAR], which noted that the growth should “support and complement the Town of Davie’s quality of life,” and also referred specifically to directing this growth to be in the downtown area. Ms. Huber said that in preparing the EAR, staff had identified areas where commercial development was most appropriate, and west Davie was not one of the areas. She felt this project would negate their entire redevelopment proposal.

Ms. Huber stated that the project would create an isolated district unrelated and incompatible with adjacent and nearby districts which was directly opposed to the second criterion, as well as land use policies that stressed that development must be compatible with existing adjacent land uses and communities. She listed the various modifications and additions from the development agreement that the developer had included to make the project compatible, and noted that if the project were truly compatible, such barriers and restrictions would be unnecessary. Ms. Huber noted that these modifications, instead of integrating the project into the Town, made it a totally separate entity, with its own regulations, police and fire service, and roads.

Ken Farkas, 15752 SW 15 Street, presented a slide show, and noted that I-75 had always provided a buffer between the residential and commercial development. He described changes the project would bring to the residential area. Mr. Farkas reported that Highland Ranches and other homeowners associations had voted unanimously to oppose the project.

Mr. Farkas did not agree with Mr. Laystrom’s opinion that the land was undesirable for residential development just because of its proximity to I-75 and the existence of overhead power lines. Mr. Farkas also projected that property taxes paid by residential development would exceed Mr. Laystrom’s projections. Mr. Farkas compared this project to the Aventura Mall, and referred to crime statistics from 2006 that indicated 39% of all arrests in Aventura occurred at the mall. He felt that the traffic exiting I-75 would interfere with residential traffic in the area. Mr. Farkas described several Florida malls and how many entrances each had. He said the developer had promised to reassess the traffic situation five years after the mall opened, and Mr. Farkas believed an additional entry/exit would be required. He added that Shotgun Road would be the only option.

Mr. Farkas pointed out that the developer’s renderings did not include any six-story and noted that this was because of the visibility of a 60-foot building from the surrounding area, despite the 30-foot berm. He presented photos of the Galleria Mall, which had a 45-foot berm, showing a 61-foot structure that was very visible from the surrounding neighborhood.

Mr. Farkas asked Council, “Don’t sell out our lifestyle and don’t change what defines Davie, don’t allow a land use change.”

Ms. Huber said Mr. Farkas’s presentation showed the project would “adversely affect living conditions in the neighborhood or the Town of Davie,” contrary to the fourth criterion.

Regarding the fifth criterion, concerning an increase in traffic congestion, or other public safety issues, Jackie Simmons 2601 SW 155 Lane, presented traffic data for Arvida Parkway, and asked what would happen when an accident affected the single access point to the mall.

Mayor Truex asked why the homeowner’s association had not commissioned their own traffic report, when the developer had offered to pay for it. Ms. Huber said they had not been able to find a company to perform the study that had no conflict, and they also felt it was the Town’s responsibility to do this, not the residents’ responsibility.

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Ms. Simmons did not believe the wall would provide noise relief for residents located to the south of the project. She felt the real issue was possible future access to shotgun Road, which would prove inevitable.

Ms. Huber referred to criterion eight: "Whether or not the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public," and felt this would certainly be the case.

Mr. Niles stated that only the developer would benefit, and nearby residents would lose. He said that residents wanted the land left for residential development. Mr. Niles asked Council to "do what you promised to do and what previous Town Councils have promised."

Ms. Huber introduced Broward County Property Appraiser Lori Parrish, to discuss the tax revenue issues concerning the tenth criterion, regarding the Town's tax base. Ms. Parrish noted that Fishkind & Associates had been given the wrong numbers with which to create their report. Ms. Parrish explained the developer's projected tax revenues were based on an incorrect [higher] millage rate, and presented her own figures, which, when projected out to 2020, showed the developer's figures to be inflated by \$6.5 million, approximately one-half million dollars per year. After computing for other taxes and fees, Ms. Parrish stated that net revenue would actually be \$373,639. She indicated that the revenue from single-family residential development would net \$1,033,580. Ms. Parrish explained the figures she had used to create her estimates.

Ms. Huber summarized that the change was inconsistent with the Town's comprehensive plan; it would create an isolated, incompatible district; it would adversely affect neighborhood and Town living conditions; it would create an excessive increase in traffic congestion and affect public safety; it would constitute a grant of special privilege to the owner, and it would not contribute the revenue the developer had claimed. She asked Council to stand by the Town's land use plan.

Dan Pignato, 6920 SW 56 Court, supported the project, and felt those who opposed it did not want it in their backyards. He noted the tax revenue the project could contribute and said the Town's teens would benefit from the jobs the project provided.

Mike Merolle, 13640 SW 29 Street, said he had enough growth, and asked Council to keep the property residential.

Ken Fortier, 13161 SW 29 Court, said his homeowner's association was not contacted by the developer regarding the project. He felt changing the land use would set a bad precedent, and asked Council not to approve the project.

Max Milam, 1480 SW 155 Avenue, was most concerned with the increase in crime he feared the project would bring. Mr. Milam thought the project "screams non-compatibility."

Bob Nettina, 510 Greateon Avenue, wondered how the developer could consider a project of this size with only one entrance.

Pete Salvo, 2700 SW 155 Lane, was concerned about the possible crime increase, and related statistics from area malls.

Miriam Farkas, 2240 Shotgun Road, said residential development would have more of an impact on her property in terms of increased traffic and noted that the additional number of kids enrolled in schools. She preferred this project to residential development and reported she had not received anything from the developer.

Robert Cooper, 15000 SW 24 Street, said he liked living in a peaceful neighborhood. He stated his opposition to the project.

Michael Giacin, 2681 SW 156 Avenue, said he opposed the project because it was adjacent to three residential neighborhoods. He was concerned about noise, traffic, and crime issues.

Jeff Cohen, SW 141 Terrace, felt something was seriously wrong with the way the Town functioned. He pointed out that the Commons project was clearly not in compliance with the Town's

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policies or the Comprehensive Plan, and was not compatible with the surrounding areas. He wondered how Town staff did not deny the application, since it was their job to enforce Town policies. Mr. Cohen felt it unfair to compel the residents to attend Council meetings a few time a year to lobby Council to prevent development they felt their ordinances already prevented and Town staff should be enforcing.

Doreen Campbell, 2230 SW 139 Avenue, stated that residential real estate, not malls, had kept the Florida economy thriving for the past five years. She felt a mega-mall and a Town were incompatible. She felt this was an opportunity for “Davie to show everyone that our government is not for sale at any price, no matter what the trend is in South Florida.”

Hans Lankutis, 14101 SW 27 Court, suggested other uses for the property that would bring revenue to the Town and require a change to the Comprehensive Plan. He wondered why developers came to Council periodically to request changes for projects that were not allowed per the Comprehensive Plan.

Linda Taylor, 14990 SW 20 Street, was concerned that Oak Hill and Vista Lakes residents had not been notified about the project. She was worried about traffic issues.

Patrick Maloney, 14075 SW 44 Street, said he had moved to Davie within the year pursuing the equestrian lifestyle and the move had resulted in a tripling of his property taxes. He felt the Council was considering a “bait and switch on the residents...”

David Oakes, 4001 SW 108 Terrace, said he was currently a member of Town’s Budget Advisory and Airport/Transportation Adsvisory Committees, both of which endorsed the project. He felt the project was needed to provide future tax revenues and asked Council to approve it.

Kamal Jani, 15000 SW 35 Street, felt nearby homeowners would put their homes up for sale if the project were approved, reducing tax revenues.

Suzie Becker, 13291 SW 41 Street, felt Homeland Security and FDOT would not allow the project to have only one entrance/exit and local roads would invariably be affected. She wondered where the power for the project would come from. Ms. Becker noted that western Davie needed to build schools due to the deteriorated condition of existing schools.

Pat Sacco said she was present on behalf of the Davie/Cooper City Chamber of Commerce, which had voted to support the Commons. She presented Mr. Muniz with their resolution regarding the project.

Jim Inklebarger, 2321 SW 98 Terrace, represented the Pine Island Ridge Board of Governors, and read a letter of endorsement for the project from the Pine Island Board. He took issue with some of the figures presented by Ms. Parrish.

Ed Scheffler, 5550 NW 44 Street - Lauderhill, stated his support of the project.

Ellis Traub, 13220 SW 32 Court, said he had spoken with 57 members of his community, and 55 of them were in favor of the project. He trusted the opinion of the professionals on Town staff that the project was in keeping with the Comprehensive Plan.

Janice Carulli, 15434 SW 31 Street, thanked the developer for conferring with residents and trying to create a compatible design, but felt there would be trouble with the facility in the future regarding traffic. She worried that if FDOT refused to allow the development with one entrance, the property would be sold to another developer who would not consult the residents on its projects. Ms. Carulli noted the failure of other area malls and was not sure the Commons could support high-end retail establishments.

Terry Santini, 4001 SW 108 Terrace - member of the Davie Community Redevelopment Agency, said plans to redevelop downtown were impossible because the infrastructure was inadequate. She felt the Town needed to seek new sources of revenue for the future. Ms. Santini reminded everyone that the Town had an approved economic development plan that defined areas for commercial development that would allow the Town to keep their rural feel. These areas were along SR 441, 595 and I-75.

David Stafford, 13210 SW 32 Court, supported the project because it would help provide revenue for the Town’s maintenance.

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Patti Koch, 1762 SW 103 Lane, stated her support for the project and felt it would provide additional revenue for the benefit of all Town residents.

John Pisula, 2933 SW 136 Avenue, felt this was a “short-term fix” for the Town’s revenue needs. He felt the recently approved SR 441 corridor program would be an enormous boon for the Town. Mr. Pisula thought it was not necessary to put commercial development in a residential neighborhood.

Manfred Schweitzer, 15107 SW 36 Street, was opposed to the project. He believed that allowing the project would alter “the balance, the focus, the organization and the logic of this town...”

Tom Green, 1800 SW 116 Avenue, was concerned about quality of life issues such as traffic, noise, water quality and crime. He favored smart growth, which would involve homes or a smaller scale commercial development.

Dan Barr, 13323 SW 40 Street - member of the Budget Advisory Committee, stated that the Committee supported the project. He wondered why officials from the City of Weston would be speaking, and suggested that they had a lot to lose if The Commons were built in Davie, as Weston businesses would suffer.

Kim Fernandez, 15876 SW 17 Street, said she was concerned about the potential crime and traffic increase.

Arlene Azquierdo, 13284 SW 43 Street, said million-dollar homes were not located near malls. She was concerned about people from “a lot of undesirable places” coming to The Commons.

Councilmember Starkey wanted to hear from Davie residents before hearing from residents from other municipalities.

Councilmember Starkey made a motion to take the residents of the Town of Davie first in the public hearing and then hear from residents from other towns. Motion died for lack of a second.

Steve Amarant, 13360 SW 43 Street, was most concerned with the traffic impacts. He also noted that there was no question that tax revenues would increase because of this project, but did not feel it was worth the other potential negative impacts.

City of Weston Mayor Eric Hersch noted the regional effect of this project, and felt Council must be mindful of the impact on the entire area. He pointed out that this was not a case where a “vested right” was at stake and Council could use their judgment. Mayor Hersch felt that the only people that really won in this whole process are the lobbyists, lawyers, and consultants.

Weston City Manager John Flint requested copies of all items presented. He asked if this would be an independent or dependent community development district. Mr. Flint felt the Weston Commission and the Davie Council shared a common priority of public safety. He said that the City of Weston had consulted the Florida Highway Patrol and Broward County Emergency Management Department and had hired consultants pursuant to their concerns. Mr. Flint felt this project presented a peril to Davie, Weston, and other towns along the I-75 corridor.

Charles Fisher, representing James Lee Witt and Associates, said his firm had analyzed the project’s severely limited access points. Ed Cannon said he had considered the project from an emergency management and planning perspective and he was primarily concerned about the single access point in the event of a disaster. He noted that the walls, berms and lakes presented additional challenges to any evacuation.

Mitchell Chester, 10391 SW 16 Place, said they must not allow development to be frozen by a threat of terrorism. He felt the berms made the project compatible with the surrounding community and the project would provide jobs and revenue to help fund additional police personnel.

Norm Blanco, 2050 SW 72 Avenue, representing The Associations in Harbor Drive, said he had presented Mr. Muniz with several endorsements representing approximately 6,000 Davie residents. He listed previous projects he felt were incompatible, but had been supported because of the tax revenue they would provide. He asked Council to approve The Commons.

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Lazlo Kis, 2641 SW 155 Lane, said he had moved to his neighborhood seeking a rural lifestyle and hoped this would not change.

Davie Police Sergeant Rich Moore presented a letter from the union president expressing support for the project. He felt the project would provide additional funds for added services and equipment to enhance public safety, and would be a destination of which the Town could be proud.

Sy Dorn, 6440 SW 42 Street and CRA and Davie/Cooper City Chamber of Commerce Board member, felt residents of other municipalities should not be speaking at this meeting.

Laurie Brasner, 3413 Dovecote Meadow Lane, stated there was no appropriate office space in the Town and, therefore, she supported the project. She felt the project would provide additional tax revenue for the future.

Fiona Cohen, 2940 SW 155 Lane, said she had sought “peace and tranquility” and had researched proposed land use changes prior to moving to her home in Davie and discovered there were no changes proposed until 2015. She was worried that if the land use was changed but FDOT opposed the Commons, some other commercial development could be built and additional entrances onto Shotgun Road would be required. Ms. Cohen felt that “common sense and compatibility with the space you have and the surrounding neighborhood has to prevail.”

Cyndi Richards, 14091 SW 26 Court, said she had lived in Sunrise prior to the Sawgrass Mall’s development, and noted the detrimental effect this had on the surrounding areas. She asked Council to refuse the request.

Michelle Knipp, 15587 SW 20 Street, said she had done research as Ms. Richards had, and opposed the project. She was concerned about the impact of construction, the possible increase in crime, and the “sheer absurdity of a single entrance.”

Robert Phillipson, 10998 Garden Ridge Court, supported the project and felt it would be an upscale destination and it would add to the tax base.

Neil Kalis, 7320 Griffin Road, supported the project. He felt that in the past, the Town had failed to capitalize on opportunities when they presented themselves, and now opportunities were disappearing.

Stuart Podel, 14151 SW 26 Court, was opposed to the project and he did not feel there was an economic demand for this type of development now. He said the jobs the project would provide were not needed at this time and he felt the single access point was comical. Mr. Podel favored an “expand on demand” project should be considered.

Damon Carroll, 2701 SW 154 Lane, suggested the project be moved to a more appropriate commercial location. He felt that if the project suited the area, it would not need all of the remediation.

Linda Hall, 14701 SW 26 Street, opposed the project in a residential neighborhood and asked Council to consider the nearby residents.

Scott McLaughlin, 5016 South University Drive, supported the project. He acknowledged that the project did not fit in with the neighborhood, but felt the project would be isolated enough for the neighborhood to be unaffected.

Elroy Zart, a Vista Lakes resident, said he had moved to Davie, despite a 500% increase in property taxes, because he desired the lifestyle. He felt this project represented a lifestyle/economic choice and asked Council to refuse the request.

Jason Diamond, 15017 SW 20 Street, said he opposed the project. He said that at some point, an additional access point would be required.

Mark Milrot, 15467 SW 20 Street, was opposed to the project because it did not fit in with the neighborhood. He felt the 100-foot berm would block his family’s view of the sky.

Dawn Shevlin, 2600 SW 154 Lane, stated that western Davie was a rural area. She feared an increase in crime if the Commons were built, and a decrease in property values.

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Sylvia Clements was concerned how deep the lake would need to be dredged. She remarked on the early, long hours at construction sites, and the disruption and noise this would create.

Chet Romano, 15917 SW 20 Street, said he had checked the land use of the area when he purchased his home, and felt it was not right to change the use now. Mr. Romano did not feel the project fit in with the surrounding community, or was needed by the community.

(see attached for verbatim minutes)

Mr. Kutney informed Councilmember Caletka that he could recall no project like this coming through Davie in the last 20 years. He explained the process staff used to consider the project.

Vice-Mayor Crowley was concerned about the single access point and other issues, but he supported moving the project forward now.

Councilmember Paul stated her opposition to the project, and said she was scared "to death" that FDOT would open up their right-of-way on 26th Street from I-75 to Shotgun Road. She read a portion of a letter from Rick Chesser at FDOT, dated 2003, indicating a connection between the Arvida Parkway and Shotgun Road to access The Commons was the only acceptable option. She stressed that FDOT did not require Davie's approval for this. Councilmember Paul indicated that if Council had concerns, Council should not be transmitting the request and not put the residents "through hell for another year - it had gone on long enough."

Councilmember Paul discussed a 2000 research study conducted by Fishkind on the cost benefit of development versus land preservation. The study spoke on the most effective argument of in favor limiting growth involved quality of life factors, vehicular traffic, greenhouse emissions, the amount of fuel, vehicular traffic, air pollution, contribution to global warming etc. She pointed out that once the project was built, the traffic problems could not be mitigated.

Councilmember Paul stated that she had worked for nine years to protect and preserve the Town and try to keep "some common sense in the development." Councilmember Paul stated that if a master plan had been developed when she had first requested, the Town would not be going through this. She said that she had supported open space and was trying to save what was left of the Town's rural past as it was what separated the Town from the other big cities in Broward County.

Councilmember Paul stated that a number of e-mails had been received from a "nobody" server which she imagined was from The Commons website; however, someone must "have messed up when they were sending stuff because we got some things under a bulk address" and one e-mail asked that she approve The Commons land use application. At the end of the e-mail, it indicated "You do realize that this kind of internet forum can be automated with a webbot on a list of e-mail addresses to generate fake e-mails." Councilmember Paul indicated that this indicates that the ID's could be fake and she contacted a few residents who she thought were opposed but she had received an e-mail from them indicating their support. These residents did not know how she had received an e-mail in support as they had gone to the website to ask questions but had not authorized an e-mail. Councilmember Paul indicated there was a discrepancy in the e-mails that Council had received.

Councilmember Paul stated that she could not see taking the chance of hoping that FDOT would deny the request. She said that if Council was interested in stopping the request, the request should not be transmitted. Mr. Laystrom advised that FDOT's position had changed since the 2003 letter was written.

Councilmember Starkey said she had received many emails and phone calls in favor of the project and said her decisions were based on the best interests of the Town, not current public opinion. She noted how the developer had responded to the community's concerns and said that the developer had also acknowledged that this was not a guaranteed right because it was being transmitted. Councilmember Starkey said she would support sending the project on for review by other agencies.

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Vice-Mayor Crowley made a motion, seconded by Councilmember Starkey, to approve subject to site plan approval and public agencies' approval through the transmittal stage.

Councilmember Starkey suggested adding "staff recommendations and what the applicant had attested to during this proceeding." Vice-Mayor Crowley added, "subject to the staff recommendations and the testament from the applicant himself." Mayor Truex clarified, all affirmative things the applicant had either offered or agreed to during their meeting. Vice-Mayor Crowley noted that Council would have the opportunity to review some items again, such as the development agreement, but "the main thing is approvals from the other agencies that they have to transmit to and also the site plan." [see attached conditions]

Mayor Truex said he would vote in favor of the project because the Town was not going to remain solvent in perpetuity something was not done. He admitted that money was a big part of it, but felt it would not be a detriment to the neighborhood. Mayor Truex stated that the project might be turned down in the future unless there was a 100% guaranteed that there could not be a connection to Shotgun Road. He said he would oppose the project if there was "a 1% chance it could happen in the future."

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 4-1)

Ordinances - First Reading (Second and Final Reading to be held February 21, 2007)

- 6.3 **RELEASE** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PETITION FOR THE RELEASE OF A CANAL RESERVATION AND ROAD RIGHTS-OF-WAY FOR THE NORTHEAST CORNER OF FLAMINGO ROAD AND ORANGE DRIVE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Earlier in the meeting, as no applicant was present, Vice-Mayor Crowley made a motion, seconded by Councilmember Paul, to table item 6.3 to February 21, 2007. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.4 **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 7-1-05 "THREE OAK BUSINESS CENTER", VACATING PUBLIC RIGHT-OF-WAY AS SHOWN ON THE PLAT OF "DAVIE TROPICANA REPLAT", AS RECORDED IN PLAT BOOK 165, PAGES 12, OF THE PUBLIC RECORDS OF BROWARD COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 7-1-05, Three Oaks Business Center, 5951 Orange Drive) *Planning and Zoning Board recommended approval*

Mr. Cherof read the ordinance by title. Mayor Truex stated the public hearing on this item would be held on February 21, 2007.

Mayor Truex opened the public hearing portion of the meeting.

Stephanie Grindell, 2900 SW 155 Lane, asked what the public purpose was for the vacation.

Mayor Truex closed the public hearing.

An unidentified woman explained that the traffic way had been reduced and this was requested to make this property developable as an office building.

The project architect referred to the site plan, and noted that the vacated area would be landscaped near the street. Any parking would be located closer to the building, far from the property line.

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Vice-Mayor Crowley made a motion, seconded by Councilmember Paul to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Quasi Judicial Items

- 6.5 **VARIANCE** - V 10-1-06, Lessard, 8005 SW 29th Street (R-3) (to reduce the minimum east side setback from 15 feet to 7.1 feet from the property line) *Planning and Zoning Board recommended approval*

Mr. Cherof swore in the witnesses.

Deborah Lessard, the applicant, explained that they had lost their screen room during Hurricane Wilma and wanted to replace it exactly as it was.

Mr. Dell confirmed that no objections had been received from neighbors.

Mr. Cherof indicated that as no one else was sworn in, a public hearing was not needed.

Vice-Mayor Crowley made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.6 **SPECIAL PERMIT** - SE 2-3-06, Bradford Marine, 3051 State Road 84 (M-2) (placement of a modular unit to be used as an office while construction of a primary structure is being performed) *Planning and Zoning Board recommended approval*

Mr. Cherof swore in the witnesses.

Gene Douglas, Vice President of Bradford Marine, explained the trailer was temporary, while they rebuilt a structure lost to Hurricane Wilma.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.7 **SPECIAL PERMIT** - SE 11-01-06, Point West Center - I/AN Imports on Weston Road, Inc., 4050 Weston Road (BP) (to allow outdoor storage of vehicles) *Planning and Zoning Board recommended approval subject to a temporary special permit for 12 months subject to Town's Code Enforcement or other Town representative taking a visual observation of the site to look for any oil spills that may be hazardous and for the applicant to clean up any of those spills before proceeding with the installation of the mulch; and that the applicant accepts the conditions made by the Development Review Committee and will continue to comply with those conditions*

This item was tabled earlier in the meeting.

Item to be tabled

- 6.8 **PETITIONER REQUESTING A TABLING TO FEBRUARY 21, 2007**
SPECIAL PERMIT - SE 2-2-06, Laystrom and Voight/Iryn Farm, LLC, 5241 SW 82 Avenue (CF) (for a private equestrian facility with a trailer to be used as an office) *Planning and Zoning Board recommended approval subject to the following stipulations: 1) the temporary use permit is for 18 months; 2) no commercial use; 3) no access from 82 Avenue; 4) no more than 16 horses to be stabled; 5) no audio equipment; 6) security lighting only; and 7) practice best method for horse manure disposal*

This item was tabled earlier in the meeting.

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7. APPOINTMENTS

7.1 Mayor Truex

- 7.1.1. Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

- 7.1.2. Water and Environmental Advisory Board (one exclusive appointment; term expires April 2008) (insofar as possible, one member shall be a licensed engineer)

No appointment was made.

- 7.1.3. Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Councilmember Paul

- 7.2.1. Airport Advisory Board (two exclusive appointments; terms expire December 2007)

No appointments were made.

7.3 Councilmember Starkey

- 7.3.1. Airport Advisory Board (one exclusive appointment; term expires December 2007)

No appointment was made.

- 7.3.1. Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.4 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointments were made.

Mayor Truex said the remaining agenda items would be addressed at the next Council meeting, but he wanted to discuss the situation with the former Town attorney. He advised that Mr. Cherof had determined that the contract with the former Town attorney was enforceable and wanted to authorize Mr. Shimun to make payments to Mr. Kiar per the contract.

Mr. Cherof stated that the severance provisions of the contract were enforceable. To date, Mr. Kiar had transitioned 24 matters to Mr. Cherof's office, and there were other items that would require Mr. Kiar's continued service. He requested authorization to direct Mr. Kiar to do the work necessary to protect the Town's interests. Council had no objections.

Councilmember Paul said it was imperative that every file was transmitted immediately to the new Town Attorney.

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Councilmember Starkey said Mr. Shimun had sent a memorandum regarding cashing in the Alliance Annuity, but she remembered that at a previous meeting, Council had directed that special counsel Sue Delegal, the risk manager, Mr. Shimun and the Deputy Budget and Finance Director pursue the insurance process. Assistant Town Administrator Ken Cohen stated that staff was pursuing more than one way to speed up the process to recover the money. Councilmember Starkey stated that Council's direction was to go through the attorney first. She stated that she didn't know if Mr. Cherof had an opportunity to review and asked for Mr. Cherof's opinion. Mr. Cherof advised that he could not. Mr. Shimun said he had received e-mails from Ms. Delegal authorizing him to take this action. Councilmember Starkey advised that she had not received this information and on this issue, Council should have all the information. Vice-Mayor Crowley indicated that he wanted to see what response the Town received from the letter. Mayor Truex and Councilmember Caletka agreed with Vice-Mayor Crowley.

8. OLD BUSINESS

8.1 McBroom Conservation Easement - Councilmember Starkey
This item was deferred to the next meeting.

9. NEW BUSINESS

9.1 Return of Credit Cards by Council - Councilmember Caletka
This item was deferred to the next meeting.

10. MAYOR/COUNCILMEMBER'S COMMENTS

No comments were provided.

11. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

12. TOWN ATTORNEY'S COMMENTS

No comments were provided.

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 3:10 a.m.

Approved _____

Mayor/Councilmember

Town Clerk

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MS. HUBER: I think that the decision before you is very simple. As I stated earlier, your code gives you ten points to evaluate tonight, and nothing that I have heard in the presentation has addressed those ten points. Yes, the project is beautiful. There is not a person in this room that I don't think looks at that and doesn't say, "it's beautiful".

It's in the wrong place. The area is zoned residential and it needs to stay residential, and the reason for that is because it's inconsistent with your comprehensive plan to do anything else. It's incompatible with the surrounding neighborhood. You are creating an isolated district.

There was a question tonight regarding the economic vitality of this Town. Your staff did an amazing job evaluating exactly that, and I'd like to present to the clerk and to the Council, the section from your EAR that addresses economic vitality. And your staff said there are commercial places within this Town where it needs to go.

It's very simple, they've found the solution for you. The solution is, put the commercial where the commercial is zoned. And do you know how much existing commercial, it's already zoned commercial that your Town has? Two hundred and ninety acres existing undeveloped commercial land. There is no need to change a hundred and fifty-two acres in a residential neighborhood into commercial land. You have the land here. Utilize what's already existing.

The issue before you is very simple. This is not an as of right project, this is somebody coming to you, asking you to change the land use. Your code has set forth criteria, and I hope that you look at them and seriously consider them tonight before you make a decision.

And I hope that you recognize that this proposed change is inconsistent, incompatible, and will forever adversely affect this neighborhood. And once the change is made, it is forever, you cannot go back. Once the development is there, it is there forever and these residents will be forced to have commercial development surrounding their neighborhood whether or not it's successful.

And so, we urge you tonight to vote against the proposed land use change, keep the zoning the way that it is and allow a hundred and fifty-two new residents to come before you in the Town of Davie.

MAYOR TRUEX: Okay, thank you. Don't go too far, in case we questions though.

MS. HUBER: I will be right there.

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MAYOR TRUEX: Okay, Mr. Laystrom? Let me ask you a question, did staff want to make a presentation or tell us anything? You just want to be available for questions, or what was your intent?

MS. NOLAN: A lot of the items we were going to go over with you this evening have already been covered, so we are here to answer any questions as well as details that you have. We also have our consultants here as well.

MAYOR TRUEX: Well, maybe think about, when the applicant's finished, maybe, if staff - you don't have to, it's late - but if you think there's anything that you want to highlight, you're going to have a chance to do that when the applicant's finished. Okay.

MR. LAYSTROM: Mayor, members of the Council, I know it's late of hour, and I will do my best to be brief. We have a number of things that I want to cover while we're setting up for some of the - I call it the buffering issues - I'd like to go over a couple of things.

First off, we had an extensive presentation by the property appraiser for Broward County. I have several expert witnesses ready to contest each figure that she had. She forgot that you also have debt that you have to repay as part of your millage rate, and that's the spread that was not part of her report. She's, the square footage prices that she has for the commercial properties isn't even close to what this property will be - that's the reason for the difference.

But what I'd like to do is propose something slightly different. I thought about it as she was speaking, and what I thought we would do is simply, as part of the developers agreement, we will guarantee you, in writing, 3.522, whatever our study shows, net to you, revenues to the Town of Davie.

And what we will do is, we will put that in the developers agreement regardless, that way, if for some reason, Lori really appraises us low, we will cover, we will simply guarantee that amount. So that you will guaranteed that when we open, you will get 3.5 million net.

MAYOR TRUEX: Is that, are you saying you're going to guarantee that before the police officers and the fire station and those things?

MR. LAYSTROM: Correct. That's net. We also have to take care of our roads. I know there were some questions of whether we do it by a community development district or we just pay for it. We will also pay for our roads as well as the fire and police that ultimately your staff determines is necessary for a project.

MAYOR TRUEX: And how about going forward. That's the first year you're talking about.

MR. LAYSTROM: We would do the same thing in each of the succeeding years to some number of years that the Council felt was appropriate.

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MAYOR TRUEX: [Inaudible]

MR. LAYSTROM: We could probably say, I mean, I'd go back just to take a look, but we could probably, between now and the adoption say forever, because we truly believe, and we have shown you, that the values on this thing will go up and up and up.

So, certainly from the net standpoint, the 3.5 is something we can provide a guarantee to the Town, and we'll do that in writing. And that's something that I think several speakers spoke about. We have to remember, again, we are at the transmittal stage, this - this is the opportunity for us now also.

We've gotten the input from the residents, we've gotten the input from Planning and Zoning Board, Budget Committee, Transportation Committee, and you're another step in the process of transmitting this so that we can get FDOT's comments, we can get comments from the County as well. And now's the time, we'll go through the things that are important to you and add that to our product and we come back to you for the adoption hearing, we will have it in writing in the developer's agreement or whatever the town attorney feels is the appropriate written vehicle so that you don't have to worry that it changes. And if anybody after me is also obligated to that.

If we sell the project for some reason, it would actually follow the land and be a guarantee for whoever would buy it, be a public record such that they would know if they purchased the property.

And that's with all of our commitments. And the reason for that, and we get chastised for, I call it "trying to address issues," when this project started, I did not bring the original site plan we had from 2001, this project has undergone probably fifty changes to this site plan that you see today.

The berm was something that was requested at the second - first, I believe it was the first citizens participation meeting. The reason we did it is because we wanted to provide a buffer. That's what the residents asked us. They asked us not to have equestrian trails running along the north and south boundaries of our property which were originally in there. And then it's "well, you're trying to seal yourself off." The answer is, we think we have a gorgeous project. We don't need the buffers. We don't believe we need the buffers. We need the water from Central Broward Water Control District, but we do not need those buffers to seal us away, but the residents asked us for that and that's why we did it.

We - some comments regarding the five-year study, the traffic after we get there. We have two huge traffic reports. I've brought them, if you want to take a look at them, they're here. You then hired two experts - the Town did - an expert to look

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at the DRI traffic, which is the Development of Regional Impact, and an expert to look at the local traffic.

In both instances, they indicated that our traffic reports were accurate. And the numbers that I gave you today were accurate. So, where do we get? Staff said, "well, let's just make sure, by having an additional look at the traffic when you actually open, and an additional look at the traffic five years later.

We also had a comment, "well, what happens if, along the way, FDOT changes its mind?" Make that a contingency, it would actually be at the adoption, but you could make that as a contingency today. I've agreed to it, make it a contingency of our land use. If we don't get the approval from FDOT, we don't go forward.

MAYOR TRUEX: How do you do that: one way in and one way out? A lot of people raised that point.

MR. LAYSTROM: Let me talk about that. And I want to - first I'm going to give you the - because we've had that before. Let me start with Port Everglades, two entrances, the airport, one entrance, FIU, a hundred and ninety-five-acre campus for Biscayne, one entrance, Keys, one entrance.

I can go through all the different projects and all the traffic generations that allowed that to happen. But we went a step further. We also studied all of the different areas where you might have an accident. The difficulty there is simply, I've got a box of stuff, of stuff which are reports, but that's not - we're at the transmission stage. What will happen is, those are the reports that come as part of typically the FDOT review of the IMR, which is simply a different path.

But if you want me to, I have no problem in going through - I call it a tanker incident, just as an example - at each of the different locations that Weston brought up tonight. It's interesting because they said we haven't met with them since 2005, well the truth is, they didn't want to meet with us since 2003. And each time, they come up with a different argument as to why - none of those boards were at the P and Z. Why? Because at that one, they were arguing that FDOT couldn't do what FDOT then told them, "oh yes, we can do this entrance."

What we would propose, if we do need a second entrance is, there is an opportunity - I'm going to just - I'm going to go out of order. And, by the way, several residents have asked me about that as well. What we would do is, we would put additional access [inaudible] right here. It would be an emergency access, same type of situation that either the Fire Department could use to get in or out, or you could evacuate this facility if this catastrophic accident were to happen.

We have looked at that, we believe that FDOT will approve it, and we believe that that will solve the issue regarding "an additional access". We don't believe,

because of the examples that I just gave you of the airport etcetera, that we need an extra access to make this traffic work under normal conditions.

When they studied that, and Weston studied it, they came to the same conclusion. That's why they didn't make that argument today. Today it's, "Well, what happens if there's an accident?" So we would provide the additional exit along that north entrance to allow the traffic out onto seventy-five. That was our proposal, that's what we proposed, that's what I talked to the residents who asked me about that, and that was always our intent to provide that additional access.

If you decide to allow a fire station on Shotgun Road, yes, would that be for emergencies? Yes it would be. But you don't have to allow that. You can make that decision at the time of adoption after you had FDOT's comments to our plans, so that you actually have them in front of you.

This is the starting point, not the end - everybody seems to think, at least from the opposition, that somehow this is the ending point. It really is not. So, with regard to one entrances, I'll provide you as many examples as you want to, with traffic flows equal to or greater than this.

Quite frankly, a one-entrance facility actually has greater safety features than one that has multiple access points. All of the examples that they gave, both for vision, which we'll talk about in just one second, and for access are all malls that open on to local roads. Yes, we could have four entrances. We don't need it. We don't need it.

Quite frankly, those other projects don't need those accesses either. They want it, but they don't need it. And that's the beauty of this site and it's ability to access I-seventy-five. It is unique. Sawgrass Mills doesn't have direct access, it has indirect access because it goes through the regional roads, which are Sunrise Boulevard, Flamingo - and I can go through each of the malls.

But I wanted to go to the site plan. Bob, if you could do the sight line. We talked about sight lines, and there were some interesting pictures of the garage in front of the Galleria being forty-five feet. Part of the way that you look at sight lines is the distance between the barrier and the actual building.

And as you will see, [inaudible] the interesting part about sight lines is it's the distance between the block -

MAYOR TRUEX: Here you are.

MR. LAYSTROM: It's the distance between the block and the actual barrier. And so what you have here is our sixty-foot building with the thirty-foot berm and the trees on top of it.

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We did it from the top of the first floor, and the top of the second floor, both on Southwest Twentieth and then we have another slide for Shotgun Road.

And in both instances, because of the distance between the barrier being close to the road and the buildings behind it, you will not be able to see those buildings. Could you, at some distance, when you got three miles away, see something at the top of the trees? Perhaps. But let's talk about what's out there today. What's out there today is seventy-five to ninety-foot lights at Arvida Parkway. What's out there today is a multi-story hospital. I think it's five, six stories, maybe taller.

We have commercial corridor running along seventy-five. Now Dennis is going to make a little bit greater presentation on the corridor out there as well as the standards of the land development code for land use amendments.

But I want to talk a little bit about what the vision is today because I think people miss the fact that you've got I-seventy-five with the noise and you've got I-seventy-five with the tall lights. Our project would be lower than those lights.

One lady got up here and talked about the orange lights that are out there. Well, those are the FDOT lights, and our project actually will be in between a majority of the Oak Hill neighborhood and those lights. It will act as its own buffer in addition to what we're going to do on our site. So with that I'd like to -

MAYOR TRUEX: How about the lights going in and out on the roadway? The access ramp, how about the lights on that, what kind of lights are going to be there?

MR. LAYSTROM: We'll put those at - we agreed to the California night light ordinance, meaning it doesn't slip off our site. Bob, [inaudible] twenty feet is what we've capped our lights at and we have a study if Bob can pull it up.

MAYOR TRUEX: But FDOT will permit whatever that type of light is on their access ramp? Aren't the ramp lights -

MR. LAYSTROM: We just have to put them closer.

MAYOR TRUEX: But you'll be permitted to do that, you would -

MR. LAYSTROM: We're going through their process. That's a request that you'll make of me and that's a request I'll make of them. If I come back and I can't do it, you will make that decision of whether that's unacceptable. Whether they - I believe that they will accept it. I won't know until I ask for sure. It hasn't been, as I said, an issue that's been raised with them yet because it wasn't asked of us, but we will go after them.

People talk about this project being something that can go on state road seven. Quite frankly, the Town needs the money to get the state road seven project going.

You need the money for the infrastructure that goes with it. We will put in all of the infrastructure that's required for this project.

I talked about roads, somebody mentioned a substation. If the substation needs to be upgraded because FPL says they don't have enough service there, that's going to be our obligation. There's no obligation that we are imposing on the Town of Davie, other than to look at our building permits when we finally get to that standpoint.

How does a buffer make something compatible? Well, if that were the case, then none of your commercial properties, and I was looking at your map, if you look at the commercial properties at Griffin and seventy-five on the east side of seventy-five, you have commercial up against the light yellow.

You have the Shannonshowa [phonetic] shopping center, with residences behind it. The difference here is instead of an eight-foot wall with perhaps landscaping on either side, we've gone the extra step and put in a ten to twelve million dollar berm and landscaping to mask ourselves, because the residents asked. We believe we're beautiful, and I believe that we will show you our views from across the water.

This is the view from Highland Ranches, Shotgun Road side - and if you have the other one Bob - this is the interior view as you would be driving into our project the berm on our side would be a little more active with the waterfalls, because we heard at the residents meetings that they wanted something as natural as possible, that doesn't look like it's a sculptured berm or as I call it, a Disney World saying "Welcome to The Commons" or something like that.

C/M CALETKA: Excuse me Mr. Laystrom, would that mean that the berm that would go in there would be an unmanicured berm?

MR. LAYSTROM: Yes. It would be maintained, don't separate - the type of berm, you would normally see on something like this would be a tiered berm with landscaping that you could kind of see the definition of it.

We intend to make it much more natural, so that it grows of itself. But we would still have to maintain it, we will still have to keep out exotic vegetation, we will still have to keep it at the heights that we promised, with replacing dead materials.

MAYOR TRUEX: Is that a requirement or an accommodation? Could you could do it either way, does it matter to the developer? That unmanicured look, is that because that's the look you felt that -

MR. LAYSTROM: Correct. And the same thing with the look of the buildings. Please feel free to comment on it, we tried to capture what we think is a vision for western Davie.

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Please feel free to comment on landscaping as well, we are wide open for that, again -

MAYOR TRUEX: So, if it was approved, and the Town wanted the other look?

MR. LAYSTROM: Absolutely put it in.

C/M CALETKA: So if this was - it's still going to be maintained, what is the cost of maintaining that berm?

MR. LAYSTROM: Bob?

BOB: Right off the top of my head I'm estimating around two hundred thousand dollars.

MR. LAYSTROM: We're at about two hundred thousand dollars, and that's annually, correct?

BOB: Yes.

C/M CALETKA: And it's going to cost ten million dollars to build this berm.

MR. LAYSTROM: Yes.

C/M CALETKA: I just wanted to make sure.

MR. LAYSTROM: For those - also in the developers agreement - it is a hundred feet is the width of the berm and the height is not that high. Its four to one, four to one slope.

Somebody also mentioned how are we going to build the lakes with the appropriate slopes, the absolute answer is yes. Central Broward Water Control District will control the design of each of those lakes.

There was a lot of talk about, I call it, safety or security, and I'm going to divide that into two parts. The first part is to the neighborhoods. Somebody parks in our parking lot and somehow is able to go into the neighborhoods and cause some sort of trouble.

We have no access to the neighborhoods, we're not looking for access. We purposely put a berm, a large water body and a thirty-foot wall to prevent access in and out of this site.

The second issue - and I hope that's, everybody feels that's sufficient - nobody's going to park, try to climb the berm, swim the lake, get across the Central Broward Canal and go into the neighborhood, take something and then somehow get back.

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The second one is the accident, the safety history of, they had Aventura Mall and a few others. When we go through that process with both the fire chief and the police chief, we have the call volumes for Destin Commons and all the Town Centers which are completely different than what you're going to find at Sawgrass Mills and all those other projects.

The Aventura Mall is a highly active mall in a highly dense, contained area. That's why this mall is different, just the same as it's different on Lori Parrish's valuations. The crime rates here will be next to nothing compared to those malls and we'll prove that as part, through the adoption process and to the satisfaction of the police chief and the fire chief.

And that's also part of site planning, we want to use septet [phonetic] principles. Dennis is going to talk a little bit about the green environmental. I know Tom Green spoke about it. We want to be environmental friendly. We're looking for certification from the International Audubon, and we're also looking for certification from the Green Builders Association, because we want to do those things.

This is supposed to be a special place where people point to and say, "they did, they went the extra mile". But also, it's good business. It's lower maintenance in the long run. Green buildings typically are much lower maintenance. You have to put a lot more money in at the beginning, but it pays off at the end. And so, we are committed to that.

I already mentioned, somebody had said that nobody had reviewed the traffic. We've done it, FDOT looked at it, the Regional Planning Council's looking at it, your two experts have looked at it.

We did make the offer before, we also offered to walk those neighborhoods adjacent to the site, and were told that we weren't allowed in to either Highlander Ranches or Riverstone, which are gated communities.

I don't know that the rural lifestyle - one thing people talked about is the rural lifestyle on Shotgun Road. I know Shotgun Road well. If you start of the south corner you have the middle school site, then you have the archdiocese site. One lady who lives there mentioned that she works at Fourteenth and Shotgun. Well that's correct, because if you go past Fourteenth on Shotgun, it's not residential anymore.

Now that is the city of Sunrise, just to let the Town of Davie Town Council know, let the residents know that it's not the Davie Town Council that did it, but there's actually commercial on this side of seventy-five, on this side, meaning the east side of seventy-five if you just go north a little bit. In fact, I did the Tower Group

project in Davie, which is an industrial project, industrial/business park project across from Vista Flora.

So if you wind the roads around to go to the back entrance to I-five ninety-five, you'll go past commercial businesses including offices and everything else on the east side of seventy-five. It's that -

MAYOR TRUEX: Sunrise, we know where it is.

MR. LAYSTROM: It's that white box, that doesn't fit in your map. Somebody asked us about dynamiting. There is no blasting - I repeat - no blasting on this project whatsoever.

If FDOT changes the access during the process, again, we're committed to stopping the project and not moving forward. We will have two and a half years, I estimate, of approvals before we will even get a building permit to build this project. Probably have another nine months or so to go on this portion, which is the land-use part. We then have to do, if you remember, the rezoning.

Platting generally takes approximately a year. We have site planning to do, and on a project this size I'm anticipating a much longer site plan process than what normally occurs because of the amount of detail that's needed in order to get through the various approvals that we have to get through.

Rapid evacuation, again, I've showed you the alternate access point, that we'll use on seventy-five. Construction access, somebody asked about that, I thought I brought it up during my initial presentation. Construction access is off seventy-five. The first thing we will do is build the ramps that go into and out of the site to allow construction access on seventy-five.

Somebody asked while I was out of the room, if the firefighters had endorsed the project. Yes, and in your six-volume package you have a letter from the firefighters endorsing this project.

And with that, I believe I have covered - I'm not going to cover the truck stop and its different access points, all of those examples were examples of projects that were not on an interstate.

We have also proposed land-use text to your land-use plan so that we can protect the balance of the neighborhood from the perception that somehow if you do this, the next project down might be somewhere along Shotgun Road. Dennis will cover that as part of his presentation.

MAYOR TRUEX: I have a couple of questions about the roads that you covered. Some of the residents brought up that eventually there'll be a connection to Shotgun. How

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could you possibly guarantee that in five, ten years, a different Council did not, would not authorize that?

I think one or more person brought up, they'll find out that they cannot get in or out, and so a subsequent Council will approve access to Shotgun. How could you possibly keep that from happening?

MR. LAYSTROM: Well I have two ways to do that. The first way is to have the deed restriction that I'm proposing with regard to no access to Shotgun running to the residents themselves, in addition to the Town. So that the only way that that deed restriction could be violated or changed is if we had a hundred percent approval from whatever residents would want that right to say no. Which I would anticipate would be many.

MAYOR TRUEX: Could you put that in favor of a whole neighborhood?

MR. LAYSTROM: Um hmm [affirmative].

MAYOR TRUEX: Multiple neighborhoods?

MR. LAYSTROM: Individually, or an association.

MAYOR TRUEX: So, if somebody bought in later on, they would have to get approval or go to -

MR. LAYSTROM: I would do the individual homeowners because it's a hundred percent. Somebody might say, "Well, they'll talk my homeowners Association into doing it." So I would run it to the individuals and the homeowners association, you cover both.

MAYOR TRUEX: So a Council couldn't change that, you'd have to have, you're saying you'd have to have the individual homeowners?

MR. LAYSTROM: It would say "requires unanimous approval to change it."

MAYOR TRUEX: Okay.

C/M CALETKA: Mr. Laystrom?

MR. LAYSTROM: Yes.

C/M CALETKA: I have a question. You have a berm that runs east and west on the north side that drops down south, which is adjacent to Shotgun. And then at the lower, on the southern portion, you actually just have a sound wall. Why is the berm not extended on the south side?

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MR. LAYSTROM: When we looked at the homes to the south, they all use that portion of the property as what I call their, we'll call it extended backyard. It's not within their backyard, but if I rolled the berm up over there, it would be right, it would be much closer to their houses than the wooded areas that are there today. So we draw it back, because the berm is a four-to-one slope, it's a hundred feet wide, I can put landscaping on both sides of the sound wall. And they indicated when he met with the ones that would meet with us, that they would prefer the sound wall.

C/M CALETKA: But they'll have to look at a wall.

MR. LAYSTROM: We believe, and, Bob, do you have that rendering [inaudible]? This is a cross-section of the wall. To the left side of the wall from your vantage point is the entrance road coming into the project.

As you notice the sight line - we looked at this very carefully - the sight line from the homes which are back here comes, we wanted to make sure we masked not only the road itself but also the cars that would be coming in on that road. And then on this side, we've left the natural looking vegetation on that side, including the vegetation that's already there in the extended backyards.

UNKNOWN SPEAKER: That's not [inaudible].

MR. LAYSTROM: Right.

C/M CALETKA: And it will need to be maintained, I assume? So you all will maintain it?

MR. LAYSTROM: Yes. They will need to be thinned is the best way to describe, yes.

C/M CALETKA: And, is that going to encroach on their privacy in any fashion, if they have a yard right there [inaudible]?

MR. LAYSTROM: Well, we don't anticipate, because we're simply thinning it out, that we will be there more than once every six months, perhaps at the most. If you wanted us to do this, we would provide a notice, I'll put a notice provision, let them know that we are coming so they get advanced warning and do it in the middle of the day, if that would be of assistance.

C/M CALETKA: Okay, thank you.

MAYOR TRUEX: Mrs. Starkey, you had a question?

C/M STARKEY: No, that's okay. Everything else, obviously, we could address if it goes forward with the site plan. No, he answered my question.

MAYOR TRUEX: Okay, Mr. Laystrom.

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V/M CROWLEY: Mr. Laystrom, I do have one question. On the CDD, dependent or independent?

MR. LAYSTROM: Let me ask, Mr. Mele, which were we -

V/M CROWLEY: That was a question [inaudible]

MR. LAYSTROM: We hadn't really gotten that far on the district as far as - because we may just pay the bills ourselves.

V/M CROWLEY: So you're not proposing a CDD?

MR. LAYSTROM: We're not proposing a CDD. If we do, we'll have to come before you. The only reason we would do it as a mechanism to assess. But everybody within this project will be a tenant, so we can also just roll it into the leases.

And if the issue on the CDD is whether or not then the Town would be able to get the incremental financing or we'd keep it within the CDD, we'd simply revert it back to you anyway. I think that was the indirect question they were asking.

But no, it would not be our intent to then keep that money within our district and not allow the Town the advantage of the tax, the assessed value increases that you would get the benefit of. And I believe I've answered all the questions that I can think of from the residents, but Town Council -

C/M CALETKA: One resident mentioned that you have a sixty-foot tall building. There was potential for it to be even more visible, if you put something else on top of it like an antenna or some kind of communication device. Is there, can you restrict it to a maximum of sixty feet? So that means that if you had a need for something like that it would have to go somewhere else?

MR. LAYSTROM: Again, part of the site plan process, but yes, if you make that a condition today, we will certainly add that language in to take a quick look, but I think we'd be fine with that. Because actually we're what, about fifty three, fifty-four feet I think, at the most. And we just keep that type of equipment off the parking garages. I think they're the own the ones that would be close.

C/M CALETKA: Thank you.

MR. LAYSTROM: And by the way, these are decorative garages. I hate to have a comparison to my other client, Mr. Case, and his facility.

MAYOR TRUEX: Okay, what else do you have?

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MR. LAYSTROM: I have Dennis Mele, just, we want to go through the criteria. I know the opponents spent a lot of time on that. Your professional staff has already rendered an opinion based on our original responses, but I know Dennis wants to just run through them for you, if we could. Thank you.

MAYOR TRUEX: Okay.

MR. MELE: I think it's important, just for the record this evening, because of course when you're doing our land-use plan amendment, the decision is to be made based on those criteria. In fact, section 12 – 304 of the town code, which was referred to earlier as part of the Highland Ranches presentation, is in the agenda package for this evening in your back up. It's on the nineteenth page. The pages aren't numbered, but I just counted it real quick.

And it begins in the middle of the page and it says "Findings of Fact", and this staff report goes through all ten of the findings of fact. And of course, the findings are contrary to what you heard earlier this evening.

First, fact number one is that the proposed change is not contrary to the adopted comprehensive plan and the agenda backup quotes several objectives and policies of your comprehensive plan that show that this project, with the design that's been put in place and with the addition of the new policy twenty-eight renders this amendment consistent with the comprehensive plan and not contrary to the plan.

There was a couple of statements made during that presentation earlier this evening that your EAR, which is your Evaluation Appraisal Report, which you do every five years according to state law, states that you're supposed to discourage urban sprawl. The aerial photographs that you've seen this evening clearly show that this isn't urban sprawl, it's infill. There's development all around it now. Urban sprawl is when you go out on the edge.

If we were building out at US twenty-seven that would be urban sprawl. This isn't urban sprawl, there's development around it on all four sides today.

Secondly, the second item. The report states that the proposed change would not be incompatible with adjacent or nearby districts. Now, the other portion of that line is that [inaudible] create isolated or unrelated districts. Can we put up the map, Bob, I think it's the next slide in the package.

This map here is showing you a compilation of the comprehensive plans in the area. So you have Sunrise over here. You have Davie in here, and down here, and then you have Weston over here.

Now, you will see along I-seventy-five, particularly at interchanges, commercial property which is this kind of pink color in Davie, in Davie, in Davie, in Weston,

and in Sunrise and Weston, you will have the purple color which is industrial. Now those industrial are a combination of offices, warehouses and so on.

So you see I-seventy-five has a significant amount of [inaudible] frontage, a significant amount of industrial and commercial properties. Here's our site here. So it certainly isn't an isolated zoning district. It is the land-use pattern along I seventy-five.

Also, it was stated as part of number two that commercial doesn't belong next to residential. It doesn't belong next to one unit per acre residential. I'll also ask you to turn around for a minute, but I'm not going to ask you to look at the town seal, which is a very nice seal, but rather the land-use map that's behind you.

And wherever you see red, that's commercial, wherever you see a light yellow or a lighter shade of yellow, that's residential. We have plenty of commercial next to residential. Now I've heard it said many times in this chamber, and in others, all the residential communities deserve the same protection, whether it's one unit per acre or three units per acre, it's still single-family homes.

We will find plenty of commercial in this city, in this town, and other place in the county, were you have commercial next to one unit per acre, commercial next three unit per acre. The whole key is buffering. And that's why your land development code has regulations for buffering. As Mr. Laystrom stated, usually those regulations require maybe a twenty or twenty-five-foot green area with an eight-foot wall. We're going well beyond that.

Now, because we went well beyond that, it was stated during the earlier presentation that by our own admission, we were incompatible. I would say, as Mr. Laystrom said, and I think somebody, Mr. McLaughlin said earlier, we put the extra buffering, the extra provisions in because we were asked to do it. That's what we were asked to do to make ourselves fit in better with the community.

So I don't think you should tell someone who's gone beyond the minimum that they did the wrong thing. They went beyond the minimum because we were trying to be a good neighbor.

The line of sight diagrams that were shown during that presentation were right as to the heights, but wrong as to the horizontal distance. I've shopped at the Galleria and if you go over there, you know that the parking garage is right next to the retail building. The parking garage is right next to Macy's it's right next to Dillard's.

We have a huge distance - I can't read the numbers - but as Bill said, the distance between the berm and our building is significant. It's not right next to it. So the horizontal distance was wrong on those drawings. When I was looking at them I was thinking, oh gee, this looks really bad. And then I realized when I thought

about the Galleria, the garage is right next to the Dillard's building it's not separated by several hundred feet like it is here. And so line of sight diagrams, have both perspectives, the height and the width, you have to look at both. You can't look at just one.

The next item that was discussed as part of the presentation is a discussion about automobile traffic. And the Town was admonished for not doing its job on review of traffic. Well, I don't think that was right. [inaudible]

We did two traffic studies. This is the traffic study for the DRI It's a hundred and twelve pages in this book and another, in excess of five hundred pages in the second volume of the book. Andre didn't bring the second volume of the book because it's all numbers and nobody knows how to read it except him and traffic engineers, so we didn't bring that one.

And this is the traffic study done for the land-use amendment - almost this entire book is the traffic study for the land-use amendment. Now, both of these studies were reviewed by your staff. You hired two consultants as Bill said, one to review the land-use and one to review the DRI. That's what's normally done.

Now, in many cases land-use amendments don't have a DRI so you don't have one of those studies. Again, we were admonished for studies would be done after-the-fact. Studies are not required after-the-fact. Studies aren't even required at CO.

But when the staff said because of concerns they've heard in the community that there might be some local impacts that weren't caught in those studies, they wanted us to take the extra step, doing an additional study after full occupancy and one five years later, and to mitigate the impacts to come out of those studies. We agreed to do it in order to minimize the concern.

It's not required, we went beyond the requirements and yet it's being told that we didn't do the job. We did triple the job that's normally done. The next discussion was about property values and neighbors.

I also had a chance to speak to the former finance director outside while we were waiting earlier this evening, and it was my understanding, and I think Bill remedied that by offering to guarantee the rates regardless, to guarantee the revenues he showed you regardless. My understanding that the property tax rates that were quoted were only the operating millage. You also have a debt service millage, as most towns do from your bond issues and other things, and that has to be added on top. Of course, any development on this site would pay both operating millage and that service millage.

So it's my understanding that the numbers that were shown in the study we presented were accurate because it contained both elements of your town millage, operating and debt service. And of course that's what we should do.

Number eight is, it was claimed that this is a grant of special privilege to an individual owner. I think the staff report hits the nail on the head. Every property owner has the right to request a land-use amendment, and that's what we did. And we took the extra step that is becoming more common these days, when you're doing a mixed-use development. You also put in new text, new language in the plan to provide extra protections. It's not just the map, it's the text and you have to read them together.

And I think also when you're looking at whether this contrasts with the welfare of the general public, which is the second half of that sentence, the general public is the whole public, the entire populace of the Town of Davie, as you've heard many times this evening. It's not just this section of the Town it's the whole town.

And when you look at the economic benefits, the benefits to the social fabric of the Town, with family entertainment opportunities for families to go somewhere together and spend time, it's a great benefit to the Town of Davie and I think that's been shown.

Those were the issues that we heard, and I think each and every one of them has been answered. We have one more slide and then I'll stop. This is just showing you a summary of some of the differences between residential development that would be allowed on the current land-use designation and what is being proposed.

Of course, with a hundred and fifty-two acres of single-family homes, you would have access to Shotgun Road, I don't know how many accesses, but at least one, probably more than one. We don't have access to Shotgun Road.

Traffic. Our traffic is restricted to a I-seventy-five, not Shotgun Road. If you had homes that used Shotgun Road, obviously you'd have traffic on Shotgun Road.

The revenue. If the, I don't know if these numbers are right or wrong, and I'm not going to argue it. All I can tell you is, we agreed to guarantee what our numbers are.

Jobs. Residential, no jobs, other than construction jobs. Ours, six thousand permanent jobs. By the way, there was discussion about construction. Whether you build this out as residential or as The Commons, you still have to do the same dredging, the same filling, the same digging, the same trucks in and out to build roads and everything else so I don't think that really changes much one way or the other.

Schools. We have no impact on schools because we're not putting in residential.

Current shopping. People are driving farther away, using our roads now to go to the other shopping centers instead of being close by.

The residential. I did hear one person say, and I was surprised to hear it because every time I've come before you or any other location where I've proposed residential and compared it to the fiscal impacts of commercial, I've always been told that commercial is the better thing financially for a city or a town or a county. It generates more revenue and requires less service. Someone said the opposite tonight and I thought I heard wrong, but I think the numbers speak for themselves.

And then finally, on the property values, again, that's an item covered in this report, in the backup for your agenda and it shows that the property value impact seems to be positive and not negative. Thank you. Bill, you have anything else you wanted to add?

MR. LAYSTROM: I just wanted to add something for the record. Because of the late evening, we had a number of our supporters outside. We had them who were here to say that they couldn't stay late into the evening, a hundred and seventy-seven of them signed. I'd like to just give those to Russell indicating that they were here, and they would've got up and said they supported The Commons.

And with that, I'd be happy to answer any questions. We believe we've covered everything for a transmittal. We understand we have a long, long way to go. We will continue to work with your staff and the residents throughout this process to get a product we can all be proud of at the end of the day.

MAYOR TRUEX: Okay, thank you. Any questions for the applicant? Okay, Mrs. Starkey?

C/M STARKEY: One of the questions, you said you were going to guarantee the net. Is that annual, while you're going through the process that you would guarantee the net, or once the end result is built?

MR. LAYSTROM: Well, the guarantee -

C/M STARKEY: What would the guarantee, if it's -

MR. LAYSTROM: The guarantee that I've proposed was when once we get our CO, we're saying we'll be at 3.5 net. If you're asking me to do something sooner than that, this would be the first time to discuss it.

C/M STARKEY: Well, I guess what I'm saying -

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MAYOR TRUEX: He's saying, [inaudible] ordinarily get the tax benefit that year, you would guarantee the amount that you stated, you thought [inaudible].

MR. LAYSTROM: Correct.

C/M STARKEY: Essentially, what I'm saying is, you would not be having a, if this is moving forward to transmittal, the agricultural exemption anymore, and there would be a commercial designation as it went through the process of the land use.

MR. LAYSTROM: We're prepared, at the adoption time, if that's the question that you're asking me, to lift the agricultural exemption, we would do that.

C/M STARKEY: Okay.

MR. LAYSTROM: Which would be next year's taxes if it [inaudible].

C/M STARKEY: So, in essence, we would receive a benefit of the tax - if it was transmitted.

MR. LAYSTROM: Right. What would happen, there is that the value of the property would jump up from right now it has an agricultural exemption which is virtually no taxes. It would jump up to the land value of the project.

C/M STARKEY: Another question is -

MR. LAYSTROM: Which I believe is about twenty million.

C/M STARKEY: - in the event you are unable to receive the approvals as we move this through transmittal from the agencies, is there a certain time that you think would be reasonable, that there would be a reversion clause, and it would revert back to no vesting of rights, In a few years, if you weren't able to achieve the - it would revert back to its existing land use of agriculture.

MR. LAYSTROM: In other words, in a sense, I have a -

C/M STARKEY: Time line.

MR. LAYSTROM: - kind of like the way site plans are. A site plan, if you get approval, it lasts for certain amount of time, then it expires.

C/M STARKEY: Right.

MR. LAYSTROM: I will work with your staff to come up with two times, one for us to, quote, get through the approval process and get the building permit, and one to open. I always worry about the one to open because that's subject to the Town's building department's got a lot, will have a lot to look at on this. But I will look at those and

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bring some suggestions back to you at the adoption hearing. I'm just thinking out loud here.

MAYOR TRUEX: Any other questions? Okay, if there's no other questions, how about discussion? Go ahead Mr. Caletka.

C/M CALETKA: [inaudible] some questions.

MAYOR TRUEX: Okay.

C/M CALETKA: About the sound wall. In the numbers that were presented by you, you mentioned the total revenue for having a hundred and fifty-two homes, and I think it was somewhere around a hundred and fifty million dollars would be the tax base. But at 1.2 million dollars, times one hundred and fifty-two, I actually have 182.4 million.

MR. LAYSTROM: I'll take a look at it. Is Chris still here? He did the [inaudible] for us. I believe, what I'm being told is, I believe it's because it's, the property appraiser typically does eighty-five percent of the value, even if it is a 1.2 million dollar home.

MAYOR TRUEX: There's Mr. Wallace. Come on up, there's question for you.

MR. WALLACE: Good evening. Chris Wallace, [inaudible] 4801 South University Drive, Suite 132, Davie.

MAYOR TRUEX: What was the question? He didn't hear it, I don't think.

C/M CALETKA: If the homes, if it were a hundred and fifty-two single-family, one home per acre home at 1.2 million dollars each, the math is that a hundred and fifty-two times 1.2 million is 182.4 million.

MR. WALLACE: Well, as Mr. Laystrom said, we usually use eighty-five percent of the sales price as an estimate of the assessed value. And from that we usually also try to take an estimate of those who would have a homestead exemption and also subtract the homestead exemption from the total assessed value to come to a taxable value upon which we would apply both your millage rates.

C/M CALETKA: Okay, thank you. There was an issue about there being too much noise and that at five a.m. construction would begin.

MR. LAYSTROM: We've limited the construction hours to seven to seven, I believe. I'll pull my deed restriction. Give me a second I'll pull that. I just want to make sure I get it accurately. And that's within the development agreement again, that will be part of this property.

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I apologize. Construction hours, seven a.m. to six p.m. In the event that weekend construction is required, it will not commenced before nine a.m. or continue past five p.m.

C/M CALETKA: Okay, thank you. I wanted to reiterate something. This is a printout of what happens for a land-use change. It goes to the Department of Community Affairs and the Regional Planning Council, FDOT. So even if this was transmitted this evening, there's a number of agencies that could turn it down.

MR. LAYSTROM: Including this Town Council when it came back for adoption, yes.

C/M CALETKA: So, it's not a land [inaudible], I'm not an attorney, I'm asking - this is not a land-use [inaudible], it requires a second reading. Is that why it comes back in nine months?

MR. LAYSTROM: Yes. there's a second public hearing.

C/M CALETKA: And if it was turned down at FDOT, what would happen, would it just be completely kicked out of the system? Or [inaudible]

MR. LAYSTROM: Not necessarily. It could still up and up back at you.

C/M CALETKA: I see.

MR. LAYSTROM: With their recommendation for denial.

C/M CALETKA: I see. I went to both of the pro Commons on anti Commons web sites, and I spent a lot of time on them [inaudible] yesterday, and it looks like if everything was proceeding forward, that the opening date would be 2011. So that means that even if this land was converted to commercial, right now you're paying what, ten thousand dollars a year for taxes on this?

MR. LAYSTROM: Correct. It's almost -

C/M CALETKA: What would the amount be if it goes to commercial?

MR. LAYSTROM: Well, if it just went to commercial, the property tax value on twenty million, Chris? Twenty million would be my guess at the property value of that site. It might be twenty-two.

MR. WALLACE: I'm sorry. Could you repeat the question please?

C/M CALETKA: If this was - C/M Starkey had mentioned that if this was transmitted on to be reassessed by the other governmental agencies that the applicant agreed that they would be willing to change their, get rid of their agricultural exemption and switch

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to commercial. So at that time, how much in taxes would that bring in during that time?

MR. WALLACE: I guess, did you have an estimate of the - twenty million? I would say probably about one million dollars. The town's tax rate is a little under five. Plus they have a voted debt service of about .9, so you're pushing six mills.

MAYOR TRUEX: It's a little under.

MR. WALLACE: I'm just rounding.

C/M PAUL: Could I just interject something there? You're presupposing that they're going to - they can't do a commercial unless it's rezoned. So you're not going to get the tax money based on commercial. You're going to get it based on the present zoning without the agricultural classification.

MAYOR TRUEX: Would you guarantee that amount too?

MR. LAYSTROM: We'll guarantee that amount also. You have to understand, all we have to do to lift the agricultural exemption on the property, and I believe that the property will be valued at that, at one unit per acre.

Absolutely, think about it, a hundred and fifty-two acres doesn't have to be very valuable for those lots that are going out there. It will easily be twenty million.

MAYOR TRUEX: So, what's the amount again, you would guarantee? I want to make sure.

MR. LAYSTROM: The tax on twenty million dollars. And if we need to fine-tune that to come up with a more exact number, we'll get some comps out there and actually multiply it by a hundred and fifty-two, eighty-five percent of that, and have that.

MAYOR TRUEX: It won't be less than that amount.

MR. LAYSTROM: I won't be less than twenty. That's correct.

C/M CALETKA: Also, along with that, the real benefits, it's my opinion that you have some numbers, and they sound good, the tax appraiser, whatever she wants to be called, she has numbers that make her side sound good. And I think it's difficult to ascertain, it's probably somewhere in the median, but you said you were guaranteeing 3.5 million per year?

MR. LAYSTROM: Correct.

C/M CALETKA: Starting in 2011?

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MR. LAYSTROM: Correct. That's our anticipated opening date, yes.

C/M CALETKA: Okay, and, if you look at a ten-year span, you have approximately I guess, one million dollars coming in due to the lifting of the agricultural exemption for the first four years, and then you have the following six years where you would be bringing in 3.522 million.

Would you be willing, if this is approved in the end, to spread out the payments evenly? A rough estimate would be over the 10 year period, twenty-one to twenty-five million, somewhere in there, divided equally into payments where you'd have basically, tax credits in your first, second, third and fourth year where you're over paying your taxes. And then -

MAYOR TRUEX: [inaudible] legal.

C/M CALETKA: - from that point on, in the year five, where it starts to generate genuine revenue, you have the tax credits, but you're still bringing in that 2.1 million so the town can start benefitting from the tax break early on?

MAYOR TRUEX: Is that legal?

MR. LAYSTROM: What I would do is this. I would certainly agree to it, because we believe that that's just a fair revenue alternative for us. It's merely - I was just checking - it's a cost value of the money early versus late. I will, between now and adoption, confirm whether or not we can legally do that.

I will tell you that we have guaranteed the minimum in Plantation in the past. So, whether I can make a blended spread and then take, in a sense, a credit in future years, I will check, I will research that between now and the time of adoption. But certainly, if we can do it we would.

C/M CALETKA: Also - I'm not saying that Turnberry does this - but I know, in many, for many large corporations whenever they come and bring a large development to the town, you're talking about four hundred million dollar or more taxable base, and I know that sometimes - I'm not saying Turnberry does this - but sometimes, the owners of the property automatically challenge whatever their newly assessed rate is.

MR. LAYSTROM: Our office does many of those.

C/M CALETKA: Okay. And from what I understand, Mrs. Parrish does a very good job at assessing, but can we get a guarantee, because you're showing us these numbers that go off into the future, that you will not challenge the assessed value to try to get it dropped below that four hundred, unless it's outrageous, say over ten percent growth?

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MR. LAYSTROM: That would be fine. I actually did that on the Altman project in Plantation on four forty-one and Broward. What you're basically asking us to do is not appeal below the levels of tax/increase over the next number of years and we agreed to do that.

We can, if all of a sudden it goes up thirty-seven percent, we would have the right to appeal it back to that, whatever the base rate we agreed to on that one. I think that's fine.

C/M CALETKA: Okay, another question, does the value of the berm figure into the taxable base? We're talking about a ten million dollar fancy wall.

MR. LAYSTROM: No, it does not. It's in effect, just open land.

C/M CALETKA: Because a lot of the residents came and I'll go ahead and disclose now, [inaudible] tons of residents, both for and against, including some personal friends of mine that are against it in Highland Ranches, but, when I was speaking with them, their main objection was, they didn't want to look at a mall.

So I spoke with the applicant and they said, "well, that's why we're building this berm." And so I went back to the homeowners and they said, "We don't want to look at a berm", that they want, they bought that house expecting to see single-family homes. And so I was going to bounce an idea off of you.

It's basically the argument that these people bought their home knowing what was going to go in, they were going to look at single-family homes and they were happy about it. It's a different situation, if you build your home on a golf course than if you build your home and then a golf course comes.

So one idea I wanted to bounce off of the applicant is, can we have single-family homes going across the north side. We're talking about one-acre, one home per acre sites, just like the adjacent properties already have, going across the northern end of the property, flanking down the east side of the property, so that way, those residents would be looking at thirty-foot tall two-story, one home per acre, 1.2 million dollar homes.

MR. LAYSTROM: And then the water on the other side?

C/M CALETKA: The water on the other side, lakefront property. Because instead of looking at a wall or instead of looking at a mall they're looking at exactly what they asked for, which is a single-family home.

MR. LAYSTROM: Well, we certainly can design something for everybody to take a look at. I'd want to plug that into my lighting study, my sound study, make sure that I can provide the same level of protection.

We certainly can try to put those things together, come up with a conceptual layout of the lots as well as, we have to show you how we would do the homes, we'd have to do the gap, the gap between the homes, because obviously they'd be set back between themselves with, we'd have to provide landscaping and other appropriate buffers and still buffer those homes as well.

But we certainly can look at it and try to come back to you with some alternatives so all the Council could take a look at that alternative as a possible alternate buffer.

C/M CALETKA: Okay.

MR. LAYSTROM: Certainly getting rid of, in a sense, getting rid of the berm, if that's something that they don't like, because now it looks like we're sealing ourselves off. I always said we're proud of our project, we believe that people who would move into those homes would be proud to be next to our project.

C/M CALETKA: So along with that -

MR. LAYSTROM: But again, I think -

C/M CALETKA: - getting rid of the berm, I haven't heard a single person in here say that they wanted this berm but the people that would buy those new homes would know exactly what was going in there on the other side of the lake, of course.

And that save the applicant two million dollars by getting rid of the berm. So with that, you're going to have unexpected expenses without a shadow of a doubt it's going to come up. You always plan for the best and you still have some surprises. Would the applicant be willing to split that, which would be about five million dollars, and give that to the town of Davie un-earmarked?

So that way - not all at once because I know you need to generate revenue - but like a million dollars per year in the sixth, seventh, eighth, ninth and tenth year.

MR. LAYSTROM: Obviously, in this particular instance, I have to have the affirmative support of the entire four members of Council, because [inaudible] Mrs. Paul is. Certainly the cost side of it, as far as the commitment, if we're getting rid of the obligation that's an easy decision for us.

As I said, I'm just, I'm more looking at that residential component just wanting to make sure I provide the right information, that it would be a comparable buffer, and at the end of the day it might not be. But we certainly, from a cost standpoint, we have no problem providing the, if we're saving the money, providing something to you. I mean, the town, not to you individually.

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C/M CALETKA: The applicants is coming at a time of transition for the leadership. Essentially, the Town of Davie is a business with a board of directors. If this comes back in nine months then we are guaranteed to have a different Council member in District four and District three is also having an election.

So the applicant has to understand that even if it gets transmitted tonight, that it might be shot down next time it comes to Davie. Or it can be shot down at the DCA, or the Regional Planning Council. I think even the Wildlife Department is on here. If it is shot down in the future, if it gets transmitted tonight and is shot down in the future, is the applicant willing to give the tax credits that it will have to give upon approval of transmittal? Are they willing to risk giving that as a gift to the town if they get shot down at a different department?

MR. LAYSTROM: Up to the point where we get shot down? In other words, if I'm moving foreword, what you're saying is you're going to lift the exemption or whatever -

MAYOR TRUEX: Yes, that's money you've already spent, you don't want, you wouldn't try to get that back.

MR. LAYSTROM: Right. We'd already spent, and the answer would be no.

C/M CALETKA: So even if it gets shot down at the DC and they recommend denial, or FDOT, you're willing, if it took, let's say six months, until start tonight, be willing to donate the 2.1 or that spread out tax credit that you, you're willing to give that?

MR. LAYSTROM: Where's Ken? If I could have just a minute [inaudible]. Councilmember, two quick questions. The first one would be that that presumes that during the course of the approval process the Town of Davie would not, would, I'm assuming at that point, we would have at least the transmittal support of the Town, that you would not, if that changed, if the Town changed its mind in between, then we would not have that obligation if the Town were to, for instance, not support us at FDOT or wherever.

Now I'm not asking you to go there with flags and, but just if you suddenly send a letter saying we don't support this project anymore. The answer would be, we're willing to do that. Going through the timetable just so you would understand, we'll be back here for the adoption, should be before the end of the year.

If not, that's our risk that we would bump into the following year, because this year taxes already set as of January so they would hit starting in your next year's mid budget, and we would be agreeable to that.

C/M CALETKA: So, basically as long as the town doesn't transmit, and then [inaudible] that by passing a resolution and tell them to vote it down.

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MR. LAYSTROM: I would -

C/M CALETKA: That's just in layman's terms.

MR. LAYSTROM: Yes.

C/M CALETKA: Okay.

MR. LAYSTROM: That's correct.

C/M CALETKA: I also have, the staff has requested thirteen items. You've probably seen this. I asked for the list today I just wanted to go by one by one and make sure that the applicant - It said that there's something about a shuttle service that will cost a hundred and fifty thousand dollars a year. You're willing to do that?

MR. LAYSTROM: Correct.

MAYOR TRUEX: Adjusted for CPI, right? Some inflation factor.

MR. LAYSTROM: That would be fine.

C/M CALETKA: It says the applicant shall hold job fairs within the Town, and -

MR. LAYSTROM: We're agreeable.

C/M CALETKA: Okay. Are you, just to make it short, is it all thirteen of these you're agreeing to?

MR. LAYSTROM: We've agreed to them. The only two that we've said there would be discussion as part of the site plan approval processes is if our site gets changed as far as the size would go through the additional processes, the fire and police obligations change accordingly. They use a rate schedule based on the number of square foot equals the number of calls equals the number of officers that you need.

C/M CALETKA: So on the eleventh, item eleven was, the Fire Department has requested that the total [inaudible] personnel of various classifications are necessary to provide adequate emergency equipment based on -

MR. LAYSTROM: And what I would read is that I will provide that amount of fire protection service equipment the Fire Chief says he needs for our project.

C/M CALETKA: And police as well?

MR. LAYSTROM: And police as well.

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C/M CALETKA: The Police Chief? Okay, thank you. And the last thing was, how many, if single-family homes were built on the north and east sides, about how many homes estimated, and I don't need an exact number if you think -

MR. LAYSTROM: It would be very few, those lots would be wide. Ten, twelve -

C/M CALETKA: But sufficient that it would block any neighbor [inaudible].

MR. LAYSTROM: That's why, if we were to go forward as that being an alternative that I have to report back to you on, I'll do a layout so that we can actually look at the lots and the building, and the homes that would go on the lots.

C/M CALETKA: Okay.

MR. LAYSTROM: I can't commit, but I can -

C/M CALETKA: The upper estimate would be thirty, the lower estimate would be twenty, so we're still talking about a pretty good tax base. Do you think you can sell these homes?

MR. LAYSTROM: Absolutely.

C/M CALETKA: Okay, and probably for a profit?

MR. LAYSTROM: The only issue for me is the actual cost of the, when I do the sound study, I want to make sure that we provide the same type of buffering as we would if we had the berm. I think that will cost a great deal. So I think we'll be throwing the lots, quite frankly, the lots in for free, but there should, we would hope that there would be some profit too.

THE COMMONS MOTION

ITEM 6.2

Staff's recommendations

1. The applicant shall provide a viable shuttle bus from the eastern part of the Town to the site. The applicant has agreed to fund this bus, at a minimum of one hour headway with the route to be determined based upon the employment responses within the town boundaries. At a minimum, the cost to operate such bus will be no less than \$150,000 per year.
2. The applicant shall hold job fairs within the Town. Details of how many job fairs and how often to ensure that Davie residents are adequately involved with this project will be developed prior to second reading.
3. The applicant shall fund a traffic impact study at the completion of the project, at time of full occupancy, and five years after full occupancy. At that time, any identifiable local road impacts that are a result of the proposed project will be mitigated by the developer.
4. The landscaping shall include at a minimum a 100 foot wide, 30 foot high earthen berm along the eastern and northern portions of the site. The Landscape berm and walls will be built first. If landscaping shall be damage or destroyed by a storm, the applicant will replace the damaged landscaping within 60 days. These items will be further addressed in the land development regulations.
5. The applicant shall restrict all noise levels to between 45 to 50 dBA. In addition, outdoor maintenance equipment will be restricted. Loading and unloading of all trucks will be buffered through truck wells and other methods detailed in the noise study. (see Attachment 8).
6. The applicant has agreed to work with Town staff to develop a night light ordinance based upon those used in California that require the ambient light levels of projects to be reduced through the installation of special light fixtures and proper placement and height. This ordinance shall be approved by Town Council prior to second reading. (see Attachment 10)
7. The developer shall mitigate, as much as possible, the existing wetlands on site.
8. The maximum building height shall be 60 feet.
9. The applicant has prepared a Developers Agreement outlining the voluntary commitments. This agreement shall be prepared and presented to Town Council prior to second reading. (see Draft Attachment 12).
10. The applicant shall provide the Shotgun Road trail within the limits of their plat. They shall enhance the trail along Shotgun Road within the limits of their plat. The maintenance responsibilities of this trail section and associated buffer shall be the developers/property owners.
11. The Fire Department has requested that a total of 28 new personnel of various classifications are necessary to provide adequate emergency and non-emergency services. It is estimated that a total of four additional Fire/EMS apparatus and one mini-support vehicle are necessary to provide adequate emergency and non-emergency services.
12. The Town of Davie Police Department has requested a separate police zone to serve the needs of the proposed amendment site once developed. This will require a total of 10 police officer positions at the time that the final phase is completed.

THE COMMONS MOTION

ITEM 6.2

13. The entire application request and supporting staff analysis is contingent upon exclusive access off I-75 for the parcel.

Conditions made at February 7, 2007 Council Meeting

Fiscal Impact

- 1) agrees to a minimum of \$3.5 million net revenues yearly once certificate of occupancy is received; however, instead of \$1 million every year for four years and \$3.522 million for every year for six years, applicant to spread out payments over the 10 year period, which equals \$.251 million per year
- 2) any development on the site would pay both operating millage and service millage
- 3) lift agricultural exempt at the time of adoption
- 4) if approvals are not received, the land use would revert to agriculture as well as no vested rights
- 5) applicant will to give tax credits upon approval of transmittal beginning at the time of transmittal
- 6) if DCA or FDOT denies, applicant willing to agree that the initial year's \$2.51 million tax credit is a donation

Infrastructure Impact

- 7) payment for roads as well as fire and police for a project, costs to be determined by staff
- 8) if the site size gets changed, police and fire obligations would change accordingly using a rate schedule based on the number of square feet equals the number of calls equals the number of officers
- 9) providing the amount of fire protection service equipment the Fire Chief indicates is needed for the project

Site Plan Related Items

- 10) if approval is not received from FDOT, the project does not move forward
- 11) if a second entrance/exit is needed, an additional access would be provided along to the north entrance to allow traffic onto I-75
- 12) construction access will be provided off I-75; ramps into and out of site will be built first
- 13) deed restriction for no access to Shotgun Road running to the Highland Ranches and residents to the south as well as the Town
- 14) the California night light ordinance will be followed, including on the access ramp, contingent upon FDOT approval
- 15) applicant obligated to upgrade FPL substation if needed
- 16) certification from the International Audubon and Green Builder's Association
- 17) applicant will provide a sound wall on the southern portion and leave the natural looking vegetation; to be maintained by the applicant at a minimum of every six months
- 18) limited to 60-foot building height which includes antenna or some kind of communication device
- 19) construction hours limited to 7 a.m. to 6 p.m. on weekdays and 9 a.m. to 5 p.m. on weekends

Miscellaneous

- 20) provision of shuttle service
- 21) holding job fairs